



# Criminal Justice (Scotland) Act 1995

## 1995 CHAPTER 20

[<sup>F1</sup>An Act to amend the criminal justice system of Scotland as respects criminal proceedings, the investigation of offences, the sentences and other disposals applicable in respect of certain offences, legal aid in relation to certain appeals, and the treatment of offenders; to amend the law of Scotland in relation to confiscation of the proceeds of, and forfeiture of property used in, crime; to make further provision as respects Scotland in relation to the preparation of jury lists for the purposes of criminal and civil trials; and for connected purposes.] [19th July 1995]

### Textual Amendments

- F1** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

## PART I

### THE COURSE OF JUSTICE

#### *Bail*

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*Status:* Point in time view as at 01/04/1997.

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

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## *Juries*

### *Pre-trial procedure*

### *Delay in trial*

### *Evidence*

**F20** .....

#### **Textual Amendments**

- F2** S. 20 repealed (1.4.1996, except (3)(5)) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II, para. 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6 Sch. 3 Pt. II, para. 17, Sch. 5; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)**

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*Status: Point in time view as at 01/04/1997.*

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

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## *The trial*

### *Conviction and sentence*

## *Appeals*

### *Mental disorder and criminal proceedings*

## *Miscellaneous*

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*Status: Point in time view as at 01/04/1997.*

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

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**66 Supervision and care of persons diverted from prosecution or subject to supervision requirement etc.**

In section 27(1) of the <sup>M17</sup>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 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”.

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**Marginal Citations**

M17 1968 c.49.

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**Status:** Point in time view as at 01/04/1997.

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

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## [<sup>F3</sup>PART II

### PROCEEDS OF CRIME AND PROPERTY USED IN CRIME]

#### Textual Amendments

- F3** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

## CHAPTER I

### CONFISCATION OF THE PROCEEDS OF CRIME

#### *Confiscation orders*

#### *Exercise of powers*

#### *Compensation*

#### *Investigations and disclosure of information*

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*Status: Point in time view as at 01/04/1997.*

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

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## CHAPTER II

### FORFEITURE OF PROPERTY USED IN CRIME

## CHAPTER III

### RESTRAINT ORDERS

## [<sup>F4</sup>CHAPTER IV

### RECIPROCAL ARRANGEMENTS FOR ENFORCEMENT OF ORDERS]

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#### Textual Amendments

- F4** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

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*Status: Point in time view as at 01/04/1997.*

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

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## **108 Enforcement of Scottish orders in England and Wales.**

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers expedient for the purpose—
  - (a) of enabling property in England and Wales which is realisable property to be used or realised for the payment of any amount payable under a confiscation order;
  - (b) of securing that, where no confiscation order has been made, property in England and Wales which is realisable property is available, in the event that such an order is so made, to be used or realised for the payment of any amount payable under it; and
  - (c) of enabling the enforcement in England and Wales of restraint orders, suspended forfeiture orders and forfeiture orders under any enactment other than the 1989 Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, an Order in Council under this section may—
  - (a) provide that, subject to any specific conditions, such description of orders made under or for the purposes of Chapter I, II or III of this Part so far as it relates to realisable property shall have effect in the law of England and Wales;
  - (b) provide that, subject to any specified conditions, the functions of a person appointed under Schedule 3 to this Act shall have effect in the law of England and Wales;
  - (c) make provision—
    - (i) for the registration in the High Court of such descriptions of orders made under or for the purposes of Chapter I, II or III of this Part so far as it relates to realisable property as may be specified; and
    - (ii) for the High Court to have, in relation to the enforcement of orders made under or for the purposes of Chapter I, II or III of this Part so far as it so relates which are so registered, such powers as may be specified; and
  - (d) make provision as to the proof in England and Wales of orders made under or for the purposes of Chapter I, II or III of this Part so far as it so relates.
- (3) In subsection (2) above “specified” means specified in an Order in Council under this section.
- (4) An Order in Council under this section may amend or apply, with or without modifications, any enactment.
- (5) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.
- (6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 01/04/1997.*

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## [<sup>F5</sup>CHAPTER V

### MISCELLANEOUS AND GENERAL]

#### Textual Amendments

- F5** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

#### [<sup>F6</sup>110 Sequestration etc. of person holding realisable or forfeitable property.

- (1) Schedule 4 to this Act shall have effect in relation to the sequestration, bankruptcy, winding up or receivership of persons or, as the case may be, companies holding realisable or forfeitable property.
- (2) In this section and in that Schedule “forfeitable property” means property which is or is liable to be the subject of a suspended forfeiture order.]

#### Textual Amendments

- F6** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

## PART III

### SUPPLEMENTARY



*Status: Point in time view as at 01/04/1997.*

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

## SCHEDULES

SCHEDULE 1 Section 22.

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SCHEDULE 2 Section 50.

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SCHEDULE 3 Section 100.

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[<sup>F7</sup>SCHEDULE 4 Section 110.

### SEQUESTRATION ETC. OF PERSONS HOLDING REALISABLE OR FORFEITABLE PROPERTY]

#### Textual Amendments

**F7** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### [<sup>F8</sup>Sequestration of person holding realisable or forfeitable property]

#### Textual Amendments

**F8** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

- [<sup>F9</sup>1 (1) Where the estate of a person who holds realisable or forfeitable property is sequestrated—
- (a) property, other than heritable property situated in Scotland, for the time being subject to a restraint order made before the date of sequestration (within the

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meaning of section 12(4) of the 1985 Act) and heritable property situated in Scotland for the time being subject to a restraint order recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland before such date of sequestration; and

- (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 3 to this Act for the time being in the hands of an administrator appointed under that paragraph,

is excluded from the debtor's estate for the purposes of that Act.

- (2) Where an award of sequestration has been made, the powers conferred on the court by sections 94 to 99 and 101 to 104 of this Act or on an administrator appointed under paragraph 1 of the said Schedule 3 shall not be exercised in relation to—
- (a) property comprised in the whole estate of the debtor (within the meaning of section 31(8) of the 1985 Act); or
- (b) any income of the debtor which has been ordered, under subsection (2) of section 32 of that Act, to be paid to the permanent trustee or any estate which, under subsection (10) of section 31 of that Act or subsection (6) of the said section 32 of that Act, vests in the permanent trustee,
- and it shall not be competent to submit a claim in relation to the confiscation order to the permanent trustee in accordance with section 48 of that Act.
- (3) Nothing in the 1985 Act shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) Where, during the period before sequestration is awarded, an interim trustee stands appointed under section 2(5) of the 1985 Act and any property in the debtor's estate is subject to a restraint order, the powers conferred on the interim trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.
- (5) Where the estate of a person is sequestrated and he has directly or indirectly made a gift caught by Chapter I of Part II of this Act—
- (a) no decree shall, at any time when proceedings as regards an offence to which Chapter I of Part II of this Act applies have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order, be granted under section 34 or 36 of the 1985 Act (gratuitous alienations and unfair preferences) in respect of the making of the gift; and
- (b) any decree granted under either of the said sections 34 and 36 after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.
- (6) In any case in which, notwithstanding the coming into force of the 1985 Act, the <sup>M53</sup>Bankruptcy (Scotland) Act 1913 applies to a sequestration, sub-paragraph (2) above shall have effect as if for paragraphs (a) and (b) thereof there were substituted the following paragraphs—
- “(a) property comprised in the whole property of the debtor which vests in the trustee under section 97 of the Bankruptcy (Scotland) Act 1913,
- (b) any income of the bankrupt which has been ordered, under subsection (2) of section 98 of that Act, to be paid to the trustee or any estate which, under subsection (1) of that section, vests in the trustee,”

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and sub-paragraph (3) above shall have effect as if, for the reference in it to the 1985 Act, there were substituted a reference to the said Act of 1913.]

#### Textual Amendments

- F9** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### Marginal Citations

- M53** 1913 c. 20.

*[<sup>F10</sup>Bankruptcy in England and Wales of person holding realisable or forfeitable property]*

#### Textual Amendments

- F10** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

- [<sup>F112</sup>** (1) Where a person who holds realisable or forfeitable property is adjudged bankrupt—
- (a) property, other than heritable property situated in Scotland, for the time being subject to a restraint order made before the order adjudging him bankrupt and heritable property situated in Scotland for the time being subject to a restraint order recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland before the order adjudging him bankrupt was made; and
  - (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 3 to this Act for the time being in the hands of an administrator appointed under that paragraph,
- is excluded from the bankrupt's estate for the purposes of Part IX of the <sup>M54</sup>Insolvency Act 1986.
- (2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 94 to 99 and 101 to 104 of this Act or on an administrator appointed under paragraph 1 of the said Schedule 3 shall not be exercised in relation to—
- (a) property for the time being comprised in the bankrupt's estate for the purposes of the said Part IX;
  - (b) property in respect of which his trustee in bankruptcy may (without leave of the court) serve a notice under section 307, 308 or 308A of the Insolvency Act 1986 (after-acquired property and tools, clothes, etc. exceeding value of reasonable replacement and certain tenancies); and
  - (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of the Insolvency Act 1986.

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

- (3) Nothing in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of the Insolvency Act 1986 and any property of the debtor is subject to a restraint order the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.
- (5) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by Chapter I of Part II of this Act—
- (a) no order shall, at any time when proceedings for an offence to which Part VI of the <sup>M55</sup>Criminal Justice Act 1988 applies have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint order, be made under section 339 or 423 of the Insolvency Act 1986 (avoidance of certain transactions) in respect of the making of the gift, and
  - (b) any order made under either of those sections after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.
- (6) In any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made, before the date on which the <sup>M56</sup>Insolvency Act 1986 came into force, sub-paragraphs (2) to (5) above have effect with the following modifications—
- (a) for references to the bankrupt's estate for the purposes of Part IX of that Act there are substituted references to the property of the bankrupt for the purposes of the <sup>M57</sup>Bankruptcy Act 1914;
  - (b) for references to the said Act of 1986 and to sections 280(2)(c), 286, 339, and 423 of that Act there are respectively substituted references to the said Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act;
  - (c) the references in subsection (4) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to the receiver constituted by virtue of section 7 of the said Act of 1914, and
  - (d) subsection (2)(b) is omitted.]

#### Textual Amendments

**F11** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### Marginal Citations

**M54** 1986 c. 45.  
**M55** 1988 c. 33.  
**M56** 1986 c. 45.  
**M57** 1914 c.59.

*Status: Point in time view as at 01/04/1997.*

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

*[<sup>F12</sup>Winding up of company holding realisable or forfeitable property]*

**Textual Amendments**

**F12** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

- <sup>F13</sup> (1) Where realisable or forfeitable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—
- (a) property, other than heritable property situated in Scotland, for the time being subject to a restraint order made before the relevant time and heritable property situated in Scotland for the time being subject to a restraint order recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland before the relevant time; and
  - (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 3 to this Act for the time being in the hands of an administrator appointed under that paragraph.
- (2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the court by sections 94 to 99 and 101 to 104 of this Act or on an administrator appointed under paragraph 1 of the said Schedule 3 shall not be exercised in relation to any realisable or forfeitable property held by the company in relation to which the functions of the liquidator are exercisable—
- (a) so as to inhibit the liquidator from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or
  - (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property.
- (3) Nothing in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) For the purposes of the application of Parts IV and V of the <sup>M58</sup>Insolvency Act 1986 (winding up of registered companies and winding up of unregistered companies) to a company which the court has jurisdiction to wind up, a person is not a creditor in so far as any sum due to him by the company is due in respect of a confiscation order (whether under this Act or under and within the meaning of section 2 of the Drug Trafficking Act 1994 or section 1 of the 1987 Act or any corresponding provision in Northern Ireland).
- (5) Where an order for the winding up of a company has been made or a resolution has been passed by a company for its voluntary winding up and before the relevant time the company has directly or indirectly made a gift caught by Chapter I of Part II of this Act—
- (a) no order or, as the case may be, decree shall, at any time when proceedings as regards an offence to which that Chapter applies have been instituted against the company and have not been concluded or when property of the

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person to whom the gift was made is subject to a restraint order, be made under section 238 or 239 of the <sup>M59</sup>Insolvency Act 1986 (transactions at an undervalue and preferences) or granted under section 242 or 243 of that Act (gratuitous alienations and unfair preferences) in respect of the making of the gift; and

- (b) any order made under either of the said sections 242 and 243 or decree granted under either of the said sections 242 or 243 after the conclusion of the proceedings shall take into account any realisation under Part II of this Act of property held by the person to whom the gift was made.

(6) In this paragraph—

“company” means any company which may be wound up under the Insolvency Act 1986; and

“the relevant time” means—

- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;
- (b) where such an order has been made and, before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company, the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.

(7) In any case in which a winding up of a company commenced, or is treated as having commenced, before the date on which the <sup>M60</sup>Insolvency Act 1986 came into force, sub-paragraphs (2) to (6) above have effect with the substitution for references to that Act of references to the Companies Act 1985.]

#### Textual Amendments

**F13** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### Marginal Citations

**M58** 1994 c. 37.

**M59** 1986 c. 45.

**M60** 1985 c. 6.

*[<sup>F14</sup>Property subject to floating charge]*

#### Textual Amendments

**F14** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

*Status: Point in time view as at 01/04/1997.*

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

- [<sup>F154</sup> (1) Where any property held subject to a floating charge by a company is realisable or forfeitable property and a receiver has been appointed by, or on the application of, the holder of the charge, the powers of the receiver in relation to the property so held shall not be exercisable in relation to—
- (a) so much of it, not being heritable property situated in Scotland, as is for the time being subject to a restraint order made before the appointment of the receiver and so much of it, being heritable property situated in Scotland, as is for the time being subject to a restraint order recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland before the such appointment; and
  - (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 3 to this Act for the time being in the hands of an administrator appointed under that paragraph.
- (2) Where, in the case of a company, such an appointment has been made, the powers conferred on the court by sections 94 to 99 and 101 to 104 of this Act or on an administrator appointed under paragraph 1 of the said Schedule 3 shall not be exercised in relation to any realisable property held by the company in relation to which the powers of the receiver are exercisable—
- (a) so as to inhibit the receiver from exercising his powers for the purpose of distributing any property held by the company to the company’s creditors; or
  - (b) so as to prevent the payment out of any property of expenses (including the remuneration of the receiver) properly incurred in the exercise of the receiver’s powers in respect of the property.
- (3) Nothing in the <sup>M61</sup>Insolvency Act 1986, shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) In this paragraph—
- “company” has the same meaning as in paragraph 3 above; and
  - “floating charge” includes a floating charge within the meaning given by section 462 of the <sup>M62</sup>Companies Act 1985 (power of incorporated company to create floating charge).
- (5) In any case in which a receiver was appointed as is mentioned in sub-paragraph (1) above before the date on which the Insolvency Act 1986 came into force, sub-paragraphs (2) to (4) above have effect with the substitution for references to that Act of references to the Companies Act 1985.]

#### Textual Amendments

**F15** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### Marginal Citations

**M61** 1986 c. 45.

**M62** 1985 c. 6.

*Status: Point in time view as at 01/04/1997.*

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

*[<sup>F16</sup> Insolvency practitioners dealing with property subject to restraint order]*

**Textual Amendments**

**F16** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

[<sup>F175</sup> (1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in the 1985 Act, where—

- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are, because that property is for the time being subject to a restraint order, not exercisable; and
- (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of a court order or otherwise) to seize or dispose of that property,

he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by the insolvency practitioner's negligence; and the insolvency practitioner shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, sequestration or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his actings in connection with those proceedings.

(2) Any person who, acting as an insolvency practitioner, incurs expenses—

- (a) in respect of such realisable property as is mentioned in sub-paragraph (1) (a) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
- (b) other than in respect of such realisable property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under sub-paragraph (1) above) to payment of those expenses under paragraph 4(2) or (4)(a) of Schedule 3 to this Act.

(3) In the foregoing provisions of this paragraph, the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986 except that for the purposes of such construction the reference in subsection (2)(a) of that section to a permanent or interim trustee in a sequestration shall be taken to include a reference to a trustee in a sequestration and subsection (5) of that section shall be disregarded; and the expression shall also comprehend the official receiver acting as receiver or manager of the property.]

**Textual Amendments**

**F17** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in



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relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

[<sup>F18</sup>Interpretation]

**Textual Amendments**

**F18** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

- [<sup>F196</sup> (1) In this Schedule “the 1985 Act” means the <sup>M63</sup>Bankruptcy (Scotland) Act 1985.
- (2) References in this Schedule to the conclusion of proceedings, except for the purposes of paragraph 2(5) above, shall be construed—
- (a) as regards property subject to a restraint order under section 94(1)(a) of this Act, in accordance with section 95(6) of this Act; and
  - (b) as regards property subject to a restraint order under section 94(1)(b) of this Act, in accordance with section 96(5) of this Act.
- (3) References in this Schedule to property held by a person include a reference to property vested in the interim or permanent trustee in his sequestration or in his trustee in bankruptcy or liquidation.]

**Textual Amendments**

**F19** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

**Marginal Citations**

**M63** 1985 c. 66.

*Status: Point in time view as at 01/04/1997.*

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

## [<sup>F20</sup>SCHEDULE 6

Section 117.

### MINOR AND CONSEQUENTIAL AMENDMENTS]

#### Textual Amendments

**F20** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

## [<sup>F21</sup>PART I

### AMENDMENTS RELATING TO PART II]

#### Textual Amendments

**F21** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

#### *The Criminal Procedure (Scotland) Act 1887 (c. 35)*

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#### *The Criminal Justice (Scotland) Act 1949 (c. 94)*

2 .....

#### *The Summary Jurisdiction (Scotland) Act 1954 (c. 48)*

3 .....

#### *The Backing of Warrants (Republic of Ireland) Act 1965 (c.45)*

<sup>F22</sup>4 In section 8(1)(b) of the Backing of Warrants (Republic of Ireland) Act 1965 (rules of court), for the words “457(a)” there shall be substituted “ 457ZA ”.

#### Textual Amendments

**F22** Act repealed (S.) (1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

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

*The Criminal Justice Act 1967 (c. 80)*

<sup>F23</sup>5 In section 69(2) of the Criminal Justice Act 1967 (extension of enactments relating to persons sentenced to imprisonment or detention to young offenders), the words “, section 40 of the Prisons (Scotland) Act 1989” shall cease to have effect.

**Textual Amendments**

**F23** Act repealed (S.) (1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

*[<sup>F24</sup>The Criminal Procedure (Scotland) Act 1975 (c. 21)]*

**Textual Amendments**

**F24** Act repealed (S.) (1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

<sup>F25</sup>6 The Criminal Procedure (Scotland) Act 1975 shall be amended as follows.]

**Textual Amendments**

**F25** Act repealed (S.) (1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

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

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

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

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

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- [<sup>F26</sup>141 In section 413(1) (detention of children in residential care)—
- (a) after the word “authority” in the first place where it occurs there shall be inserted “ for such period not exceeding one year as may be specified in the order ”; and
  - (b) the words from “and shall” to the end shall cease to have effect.]

**Textual Amendments**

**F26** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

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

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*The Sexual Offences (Scotland) Act 1976 (c. 67)*

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*The Community Service by Offenders (Scotland) Act 1978 (c. 49)*

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*The Criminal Justice (Scotland) Act 1980 (c. 62)*

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*The Mental Health (Scotland) Act 1984 (c. 36)*

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*The Criminal Justice (Scotland) Act 1987 (c. 41)*

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*[<sup>F27</sup>The Road Traffic Offenders Act 1988 (c. 53)]*

**Textual Amendments**

**F27** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in



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

relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F28</sup>171] In section 19 of the Road Traffic Offenders Act 1988 (evidence of disqualification in Scotland)—

- (a) the existing provision shall become subsection (1);
- (b) in that subsection for the words “less than six days before his trial” there shall be substituted “ more than seven days after the date of service of the copy ”; and
- (c) after that subsection there shall be inserted—

“(2) A copy of a conviction or extract conviction served on the accused under subsection (1) 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 such copy conviction or extract conviction together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of such a copy.”].

#### Textual Amendments

**F28** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F29</sup>172] In section 20 of that Act (admissibility of certain evidence regarding speeding offences etc.), after subsection (8) there shall be inserted the following subsection—

“(8A) As respects proceedings in Scotland, a copy of a document served on a person under subsection (8) 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 such copy document together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of such a copy.”].

#### Textual Amendments

**F29** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F30</sup>173] In sections 31(2) (court may take account of particulars endorsed on licence) and 32(6) (court may take account of extract from licensing records) of that Act—

- (a) for the words “sections 31(5) and” there shall be substituted “ section ”; and
- (b) the words “penalties and” shall cease to have effect.]

*Status: Point in time view as at 01/04/1997.*

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

#### Textual Amendments

**F30** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

#### *The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)*

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#### *[<sup>F31</sup>The Criminal Justice Act 1991 (c. 53)]*

#### Textual Amendments

**F31** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

[<sup>F32</sup>178 In Schedule 3 to the Criminal Justice Act 1991 (reciprocal enforcement of certain orders), in paragraph 6(5)(a)(i), for the words “evidence on oath” there shall be substituted “information”.]

#### Textual Amendments

**F32** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

#### *The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

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*Status: Point in time view as at 01/04/1997.*

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

## [<sup>F33</sup>PART II

### AMENDMENTS RELATING TO PART II]

#### Textual Amendments

**F33** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

### [<sup>F34</sup> *The Trade Marks Act 1938 (c.22)*]

#### Textual Amendments

**F34** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F35</sup>180 In section 58B of the Trade Marks Act 1938 (delivery up of offending goods and material), in subsection (6) for the words “section 223 or 436 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 ”.]

#### Textual Amendments

**F35** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

### *The Criminal Procedure (Scotland) Act 1975 (c.21)*

181 .....

### *The Community Service by Offenders (Scotland) Act 1978 (c.49)*

182 .....

### [<sup>F36</sup>*The Civil Jurisdiction and Judgments Act 1982 (c.27)*]

#### Textual Amendments

**F36** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4,

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6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

- [<sup>F37</sup>183 In subsection (4A) of section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of U.K. judgments in other parts of U.K.)—
- (a) after the words “Court of Session” there shall be inserted the words “ or by the sheriff ”; and
- (b) at the end there shall be added “ or Part II of the Criminal Justice (Scotland) Act 1995 ”.]

#### Textual Amendments

**F37** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

#### *[<sup>F38</sup> The Telecommunications Act 1984 (c.12)]*

#### Textual Amendments

**F38** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

- [<sup>F39</sup>184 In Schedule 3 to the Telecommunications Act 1984 (penalties and mode of trial under the Wireless Telegraphy Act 1949), in paragraph 3(b) for the words “sections 223 and 436 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “ Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 ”.]

#### Textual Amendments

**F39** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, **art. 3, Sch.**

#### *The Bankruptcy (Scotland) Act 1985 (c. 66)*

*Status: Point in time view as at 01/04/1997.*

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

*[<sup>F40</sup>The Criminal Justice Act 1988 (c.33)]*

**Textual Amendments**

**F40** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

<sup>F41</sup>18(1) The Criminal Justice Act 1988 shall be amended as follows.

- (2) In section 74(2)(c) (meaning of realisable property) after the word “property” there shall be inserted the words “or Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 (suspended forfeiture orders) ”.
- (3) In section 77 (restraint orders)—
  - (a) in subsection (10) for the words “the High Court has made a restraint order” there shall be substituted the words “ a restraint order has been made ” and at the end of that subsection there shall be added the words—

“In this subsection, the reference to a restraint order includes a reference to a restraint order within the meaning of Part II of the Criminal Justice (Scotland) Act 1995 and, in relation to such an order, “realisable property” has the same meaning as in that Part”;  
and
  - (b) in subsection (11), for the words “court’s directions” there shall be substituted the words “ directions of the court which made the order ”.
- (4) In section 89(2)(b) (compensation), for the words “an order under this Part of this Act” there shall be substituted the following paragraphs—
  - “(i) an order under this Part of this Act; or
  - (ii) an order of the Court of Session under section 101, 102, 103 or 104 of the Criminal Justice (Scotland) Act 1995.”
- (5) Sections 90 (recognition and enforcement of orders in Scotland), 91 (supplementary provision to section 90), 92 (inhibition and arrestment of property in Scotland), 93 (proof in Scotland of High Court orders) and 95 (enforcement of Northern Ireland order in Scotland) shall cease to have effect.
- (6) In section 93E (applications of provisions relating to money laundering and other offences to Scotland), after the word “summarily)” there shall be inserted the words “ or an offence punishable on summary conviction by a fine of an amount greater than the amount corresponding to level 5 on the standard scale or by imprisonment for a period exceeding 3 months or by both such fine and imprisonment ”.]

**Textual Amendments**

**F41** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

*Status: Point in time view as at 01/04/1997.*

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

*[<sup>F42</sup> The Copyright, Designs and Patents Act 1988 (c.48)]*

**Textual Amendments**

**F42** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F43</sup>187(1) The Copyright, Designs and Patents Act 1988 shall be amended as follows.

- (2) In section 108(6) (order for delivery up in criminal proceedings) for the words “section 223 or 436 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “ Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 ”.
- (3) In section 199(6) (order for delivery up in criminal proceedings) for the words “section 223 or 436 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “ Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 ”.]

**Textual Amendments**

**F43** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

*The Road Traffic Offenders Act 1988 (c.53)*

188 .....

*The Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4)*

189 .....

*[<sup>F44</sup> The Criminal Justice (International Co-operation) Act 1990 (c.5)]*

**Textual Amendments**

**F44** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

[<sup>F45</sup>190(1) In section 9(6) of the Criminal Justice (International Co-operation) Act 1990 (enforcement of overseas forfeiture orders), for the words from “or an” to the end there shall be substituted the words “ an offence to which Part VI of the Criminal

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

Justice Act 1988 applies, an offence to which Chapter I of Part II of the Criminal Justice (Scotland) Act 1995 applies or an offence in respect of which a suspended forfeiture order may be made under section 87 of the said Act of 1995. ”.

- (2) In section 15(3) of that Act (interest on sums unpaid under confiscation orders), for the words “applicable to an award of damages in” there shall be substituted “payable under a decree of”.
- (3) Section 17 (increase in realisable property: Scotland) of that Act shall cease to have effect.]

#### Textual Amendments

**F45** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

#### *The Northern Ireland (Emergency Provisions) Act 1991 (c.24)*

- 191 In section 50(2) of the Northern Ireland (Emergency Provisions) Act 1991 (realisable property, value and gifts), for paragraph (e) there shall be substituted the following paragraph—
- “(e) Chapter II of Part II of the Criminal Justice (Scotland) Act 1995”.

#### *The Road Traffic Act 1991 (c.40)*

192 .....

#### *The Drug Trafficking Act 1994 (c. 37)*

- 193 (1) The Drug Trafficking Act 1994 shall be amended as follows.
- (2) In section 4(7) (assessing the proceeds of drug trafficking), after paragraph (b) there shall be inserted—  
  
“; or  
  
(c) Part II of the Criminal Justice (Scotland) Act 1995.”.
  - (3) In section 6(3) (meaning of realisable property), after paragraph (d) there shall be inserted the following paragraph—  
  
“(e) Chapter II of Part II of the Criminal Justice (Scotland) Act 1995 (suspended forfeiture orders);”.
  - (4) In section 18(2)(b)(ii) (compensation), for the words from “11” to “28” there shall be substituted “ 27, 28, 28A or 28B ”.
  - (5) In section 26(10) (restraint orders), after the words “1987” there shall be inserted “ or Part II of the Criminal Justice (Scotland) Act 1995 ”.

*Status: Point in time view as at 01/04/1997.*

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

## F<sup>46</sup>SCHEDULE 7

Section 117.

### REPEALS

#### Textual Amendments

**F46** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

## [F<sup>47</sup>PART I

### REPEALS RELATING TO PART I

#### Textual Amendments

**F47** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, **Sch. 5**; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, **Sch. 5**; 1995 c. 36, s. 105(4), **Sch. 4 para. 60**; S.I. 1996/3201, **art. 3(7)** and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.**

#### Commencement Information

**I6** **Sch. 7 Pt. I** wholly in force at 31.3.1996; **Sch. 7 Pt. I** not in force at Royal Assent see s. 118(2); **Sch. 7 Pt. I** in force for certain purposes at 26.9.1995 by S.I. 1995/2295, art. 3(2), **Sch.**; **Sch. 7 Pt. I** in force at 31.3.1996 insofar as not already in force by S.I. 1996/517, **art. 3(2)**

Chapter	Short title	Extent of repeal
1887 c.35.	The Criminal Procedure (Scotland) Act 1887.	Section 3.  Schedule D. Schedule E. Schedule N. Schedule O.
1949 c.94.	The Criminal Justice (Scotland) Act 1949.	Schedule 7.
1954 c.48.	The Summary Jurisdiction (Scotland) Act 1954.	In Schedule 2, Parts I and III to VI. Schedule 3.
1967 c.80.	The Criminal Justice Act 1967.	In section 69(2), the words “, section 40 of the Prisons (Scotland) Act 1989”.



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1975 c.21.	The Criminal Procedure (Scotland) Act 1975.	Section 14(3).  Section 20(2).  In section 26(3), the words “or justice”.  In section 33, in subsection (1), the words from “or where” to “application,”; and in subsection (2), the words “by telegraph”.  Section 62.  In section 68, in each of subsections (2) and (4), the words “of Form No.1 of Schedule 7 to the Criminal Justice (Scotland) Act 1949 or in the form”.  In section 69, the words from “and” in the third place where it occurs to “Act” in the fourth place where it occurs, and the words from “The executions” to the end.  In section 73(1), the words from “, unless” to the end.  In section 100, in subsection (1), the words from “but” to the end; and subsections (2) and (3).  Section 110.  In section 124, the proviso.  In section 127(2), the words “Schedule N to the Criminal Procedure (Scotland) Act 1887 or in”.  Section 130(1) to (3).  Section 132(2).  In section 140A(1)(b), the words “were the offence charged the only offence so charged”.  Section 141(1)(b).  Section 144.
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**Changes to legislation:** *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995. (See end of Document for details)*

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Section 145(4).

Section 146.

In section 150(1), the words “, where the accused is legally represented,”.

In section 153, subsection (1) and, in subsection (3)(b)(ii), the words from “(as” to the end.

In section 156, in subsection (1)(b), the words from “, as” to the end; and subsections (4) and (5).

In section 157, in subsection (1), the words “through his counsel”, “in which the panel has pleaded guilty under section 102 of this Act” and “(other than a trial for murder”); and subsection (2).

Section 159(1) and (3).

Section 160(3).

Section 163.

In section 174, subsections (3) and (4).

In section 178(1), the words “either” and “or during such period as may be specified in the order”.

In section 183, in subsection (5A)(a), the words “has committed an offence punishable by imprisonment and”; and in subsection (7) the words “to the probationer”.

In section 186(1), the words “on oath”.

Section 190.

In section 191(4), the words “placed on probation or” and “probation order or”.

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In section 192, the words from “(other than” to “Act)” and the proviso.

In section 196(1), the proviso.

Section 225.

Section 226.

Section 227.

In section 235, the words from “but in regard” to the end.

Section 236C.

Section 237.

In section 238, in subsection (2), the words “or of any application for leave to appeal” and, in paragraphs (a) (i) and (b)(i), the words “or application”.

In section 239, in subsection (1), the words from “and” in the second place where it occurs to the end; and subsection (2).

In section 240, the words from “except” where it first occurs to the end.

Section 246.

Section 256.

Section 259.

Section 265(3) and (5).

In section 270, in subsection (2) the words from “(or any” to “note of appeal)” where first occurring and from “(or in the case” to “note of appeal)” where second occurring; in subsection (3), the words from “(or in the case” to “note of appeal)””; and in subsection (4), the words from “(or in the case” to “note of appeal)”.

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

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Section 272.

Section 273.

Section 276.

In section 277, in subsection (2), the words “section 236C”, “section 237”, “section 246”, “section 259”, “section 272” and “section 273”.

Section 282.

Section 289D(1A)(d).

In section 296, in subsections (1) and (2), the words “sitting summarily” in each place where they occur.

In section 300(4), the words from “, or where” to “96 hours,”.

In section 309(1), the words “Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 or in”.

In section 310, the words “Part I of Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 or in”.

In section 311, in subsection (1), the words from “in” where it first occurs to the end; and subsections (4) and (5).

Section 313.

In section 314(1)(d), the words “or interim order”.

In section 315(2), the words “Part IV of Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 or in”.

In section 318(2), the words “Part IV of Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 and the corresponding forms contained in”.

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In section 319(1), the words  
“other than a witness”.

In section 321, in  
subsection (1), the words  
“Part IV of Schedule 2 to  
the Summary Jurisdiction  
(Scotland) Act 1954 or in”;  
and in subsection (3), the  
words “either by way of trial  
or by way of remit to another  
court”.

Section 323(3).

Section 331(2).

In section 335(1), the words  
“penalty or”.

Section 336.

In section 337A(1), the word  
“and” immediately following  
paragraph (a).

In section 344(1), the words  
“or to produce documents in  
his possession when required  
by the court,”.

Section 345.

Section 346(1)(b).

In section 354(1), the  
proviso.

Section 356(1) and (3).

In section 357, in  
subsection (1)(a), the words  
“Form No. 2 or 3 of Part  
III of Schedule 2 to the  
Summary Jurisdiction  
(Scotland) Act 1954 or of”;  
and subsection (4).

Section 360.

In section 360A, in  
subsection (1)(b), the words  
from “as” to the end; and  
subsection (2).

Section 366(2).

Section 376(2).

In section 379(1), the words  
“either” and “or during such

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

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period as may be specified in the order”.

In section 384, in subsection (1), the words from “and”, where it first occurs, to “offence” in the third place where it occurs; in subsection (5A)(a), the words “has committed an offence punishable by imprisonment and”; in subsection (6), the words “convicted of and”; and in subsection (7) the words “to the probationer”.

In section 387(1), the words “on oath”.

Section 391.

In section 392, in subsection (4), the words “placed on probation or”; and in subsection (5), the words “placed on probation or” and “probation order or”.

In section 393, the words from “(other than” to “Act)” and the proviso.

In section 396(7), the words “, subject to any rules under this Part of this Act”.

In section 402, the proviso.

In section 406, the words “damages or expenses,”.

In section 413(1), the words from “and shall” to the end.

In section 430(1), the words “Part V of Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 or in”.

In section 432(1), the words from “and”, where it second occurs, to the end.

Section 435.

In section 440, the words “Part V of Schedule 2 to the Summary Jurisdiction (Scotland) Act 1954 or in”.

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		In section 441, the words from “, although” to “place,”.
		In section 453(4)(a)(i), the word “and”.
		In section 454(1), the words “at the trial by the solicitor of the accused”.
		Section 457.
		In section 462, in subsection (1), in the definition of “prosecutor”, the words “private prosecutor,” in the second place where they occur; and subsection (10).
		Schedule 3.
1976 c.67.	The Sexual Offences (Scotland) Act 1976.	In section 4(1), in the proviso, the words “on indictment”.
1980 c.62.	The Criminal Justice (Scotland) Act 1980.	In section 26, in subsection (2), the word “summary” and the words from “In the foregoing” to the end; in subsection (4), the words from “or of a conviction” to “(8) below,”; and in subsection (5), the words “under summary procedure”.
		In Schedule 4, paragraph 20.
1984 c.36.	The Mental Health (Scotland) Act 1984.	In section 67(1), paragraph (a)(ii) and the preceding “or”, and the words from “or the order” to the end.
1986 c.36.	The Incest and Related Offences (Scotland) Act 1986.	In Schedule 1, paragraph 2.
1986 c.47.	The Legal Aid (Scotland) Act 1986.	In section 25(2), the words “the Board is satisfied”.
1988 c.53.	The Road Traffic Offenders Act 1988.	In section 31(2), the words “penalties and”.
		In section 32(6), the words “penalties and”.

*Status: Point in time view as at 01/04/1997.*

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

1990 c.40.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.	In section 56(2), the word “and” immediately following paragraph (a).  In section 58, the words “cited to give evidence in a trial”.
1993 c.9.	The Prisoners and Criminal Proceedings (Scotland) Act 1993.	In section 28(3), the words “or 384(1) (probation)”.  In section 33(1), the words from the beginning to “and” where it first occurs.  In Schedule 5, paragraph 1(25)(a)(ii), (b)(i) and (c)(i), (26) and (28).
1994 c.33.	The Criminal Justice and Public Order Act 1994.	In Schedule 10, paragraph 47.]

#### Modifications etc. (not altering text)

C6 Repeal in Sch. 7 Pt. I restricted (31.8.1995) by [S.I. 1995/2295](#), [art. 6](#)

## [<sup>F48</sup>PART II

### REPEALS RELATING TO PART II

#### Textual Amendments

**F48** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by [1995 c. 40](#), ss. 4, 6, 7(2), [Sch. 3 Pt. II paras. 16\(3\), 17](#), [Sch. 5](#); the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of [1995 c. 40](#), ss. 4, 6, [Sch. 3 Pt. II para. 17](#), [Sch. 5](#); [1995 c. 36](#), s. 105(4), [Sch. 4 para. 60](#); [S.I. 1996/3201](#), [art. 3\(7\)](#) and in relation to s. 66 on 1.8.1997 by virtue of [1997 c. 48](#), s. 62(1)(2), [Sch. 1 para. 16](#), [Sch. 3](#); [S.I. 1997/1712](#), [art. 3](#), [Sch.](#)

Chapter	Short title	Extent of repeal
1975 c.21.	The Criminal Procedure (Scotland) Act 1975.	Section 223.  Section 436.
1987 c.41.	The Criminal Justice (Scotland) Act 1987.	Section 1(3).  Section 3(5).  In section 5, in subsection (5), paragraph (b); subsection (6); in



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

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subsection (7) the words “notwithstanding subsections (5)(b) and (6) above”; and subsection (8).

In section 6, subsections (4) and (5).

In section 7(2), in the entry relating to section 411, the words “except the proviso to subsection (3)”.

In section 11, in subsection (1), in paragraph (ii), the words “where granted under subsection (1)(a) above,”; in subsections (4) and (5), the words “or arrestment” in each place where they occur; and subsection (6).

In section 12, in subsection (1), the words from “and the clerk of court” to the end.

In section 14(1)(c) the words from “and, without” to the end of the paragraph.

In section 23(6) the words from “and without” to “family” and the words “(other than an obligation having priority, within the meaning of section 5(8) of this Act)”.

In section 26, in subsection (2)(b), the word “substantial”; and in subsection (4), after paragraph (c) the word “and”.

In section 30, in subsection (1), paragraphs (b)(i) and (c) and the word “and” immediately preceding paragraph (c).

In section 41(2), the words from the end of paragraph (b) to the end of the subsection.

In section 47(1) the definition of “associate”.

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

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1988 c.33.	The Criminal Justice Act 1988.	Sections 90 to 93.  Section 95.
1989 c.4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In Schedule 4, in paragraph 16, sub-paragraph (1)(b); in sub-paragraph (2)(b) the words “where granted under sub-paragraph (1) (a) above,”; and in sub-paragraphs (5) and (6), the words “or arrestment”, in each place where they occur.
1990 c.5.	The Criminal Justice (International Co-operation) Act 1990.	Section 17.
1991 c.40.	The Road Traffic Act 1991.	Section 37.]

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**Status:**

Point in time view as at 01/04/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995.