

## SCHEDULE

(introduced by [section 50](#))

### TEMPORARY JUSTICE MEASURES

#### PART 1

#### COURTS AND TRIBUNALS: CONDUCT OF BUSINESS BY ELECTRONIC MEANS ETC.

#### CHAPTER 1

#### DOCUMENTS

##### *Electronic signing*

- 1 (1) An electronic signature fulfils any requirement (however expressed and for whatever purpose) for the signing, intialling or signetting of—
  - (a) a document of a type mentioned in [paragraph 3\(1\)](#), or
  - (b) a deletion or correction to such a document.
- (2) In [this paragraph](#), “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document.

##### *Sending electronically and to a solicitor*

- 2 (1) Any requirement (however expressed) that a document of a type mentioned in [paragraph 3\(1\)](#) be given to a person may be fulfilled by—
  - (a) transmitting it to the person electronically, or
  - (b) transmitting it (electronically or otherwise) to a solicitor engaged to act on the person’s behalf in relation to the proceedings in question.
- (2) For the purposes of [this paragraph](#)—
  - (a) electronic transmission of a document by one person (“the sender”) to another person (“the recipient”) must be effected in a way that the recipient has indicated to the sender that the recipient is willing to receive the document,
  - (b) the recipient’s indication of willingness to receive a document in a particular way may be—
    - (i) specific to the document in question or generally applicable to documents of that kind,
    - (ii) expressed specifically to the sender or generally (for example on a website),
    - (iii) inferred from the recipient having previously been willing to receive documents from the sender in that way and not having indicated unwillingness to do so again,
  - (c) the sender’s uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document from the sender to the recipient.
- (3) In [this paragraph](#), references to giving a person a document include—

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- (a) serving a document on a person,
- (b) sending a document to a person, and
- (c) lodging a document with, or otherwise apply to or petitioning, a court or tribunal.

*Documents to which [paragraphs 1 and 2](#) apply*

- 3 (1) The types of document referred to in [paragraphs 1 and 2](#) are—
- (a) an order, warrant, sentence, citation, minute or any other document produced by a court or tribunal,
  - (b) an extract of any document referred to in [paragraph \(a\)](#),
  - (c) any document that an enactment requires be given to a person in connection with, or in order to initiate, proceedings,
  - (d) any document that an enactment requires to be signed, initialled or signetted in order that it, or any other thing, may be used in proceedings for any purpose including—
    - (i) being used as evidence, or
    - (ii) being treated as sufficient evidence of a matter.
- (2) But a type of document mentioned in [sub-paragraph \(1\)](#) is not to be regarded as mentioned in that sub-paragraph for the purposes of [paragraph 1 or 2](#) (or both) if—
- (a) the Lord President of the Court of Session, or
  - (b) the Lord Justice General,
- directs that it is not.
- (3) A direction under [sub-paragraph \(2\)](#) may—
- (a) relate to some or all proceedings,
  - (b) vary or revoke an earlier direction under that sub-paragraph.

*Intimation etc. on Scottish Courts and Tribunals Service website*

- 4 (1) Any requirement (however expressed) that a document—
- (a) be put on the walls, doors or any other part of a court building (whether internal or external), or
  - (b) be made publicly available in any other way within a court building,
- may be fulfilled instead by the document's being made publicly available through the Scottish Courts and Tribunals Service website.
- (2) But [sub-paragraph \(1\)](#) does not apply to a document if it is of a type that—
- (a) the Lord President of the Court of Session, or
  - (b) the Lord Justice General,
- has directed that [sub-paragraph \(1\)](#) does not apply to.
- (3) Where a document is to be made publicly available through the Scottish Courts and Tribunals Service website by virtue of [this paragraph](#), it is to so be made available in accordance with—
- (a) any direction issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General, and
  - (b) (subject to any necessary modifications) any enactment about—

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- (i) how a step mentioned in [paragraph \(a\)](#) or [\(b\)](#) of [sub-paragraph \(1\)](#) is to be taken in relation to the document, or
  - (ii) the length of time for which the document is to be made publicly available in a way described by those paragraphs.
- (4) A direction under [sub-paragraph \(3\)\(a\)](#) may, in particular, provide that a document is to be made available only in a redacted form.
- (5) If an enactment provides for an alternative to taking a step mentioned in [paragraph \(a\)](#) or [\(b\)](#) of [sub-paragraph \(1\)](#) as a means of achieving an outcome (for example, advertising an application in a newspaper as a means of intimating it), nothing in [this paragraph](#) precludes the taking of that alternative step to achieve the outcome.
- (6) In [this paragraph](#), “the Scottish Courts and Tribunals Service website” means the website maintained by, or on behalf of, the Service with the internet domain name scotcourts.gov.uk.

#### *Interpretation of Chapter*

- 5 In [this Chapter](#)—
- (a) references to a court or tribunal include an office holder of a court or tribunal,
  - (b) “document” includes a copy of a document.

## CHAPTER 2

### ATTENDING A COURT OR TRIBUNAL

#### *Suspension of requirement for physical attendance in non-criminal proceedings, criminal trials and certain processes*

- 6 (1) This paragraph applies—
- (a) in relation to proceedings that are not criminal proceedings, and
  - (b) in the context of criminal proceedings, only in relation to—
    - (i) a hearing in which a person is to give evidence,
    - (ii) proceedings in which the only party is a public official as defined in [paragraph 9\(3\)](#).
- (2) Any requirement (however expressed) that a person physically attend a court or tribunal does not apply, unless the court or tribunal directs the person to attend physically.
- (3) But [sub-paragraph \(2\)](#) does not apply in relation to a hearing in which a person is to give evidence.
- (4) In the case of a hearing in relation to which [sub-paragraph \(2\)](#) does not apply, the court may disapply any requirement (however expressed) that a person physically attend the court by directing that the person need not do so.
- (5) A court or tribunal may direct a person to physically attend under [sub-paragraph \(2\)](#) only if it considers that allowing the person to attend by electronic means would—
- (a) prejudice the fairness of the proceedings, or
  - (b) otherwise be contrary to the interests of justice.

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- (6) A court may disapply a requirement for a person’s physical attendance under [sub-paragraph \(4\)](#) only if it considers that allowing the person to attend by electronic means in accordance with [paragraph 8](#) would not—
- (a) prejudice the fairness of the proceedings, or
  - (b) otherwise be contrary to the interests of justice.
- (7) The power to issue a direction under both [sub-paragraphs \(2\)](#) and [\(4\)](#) includes the power to revoke an earlier direction under that sub-paragraph.
- (8) A court or tribunal may issue a direction under [sub-paragraph \(2\)](#) or [\(4\)](#) on the motion of a party or of its own accord.
- (9) In considering whether to issue a direction under [sub-paragraph \(2\)](#) or [\(4\)](#), the court or tribunal must—
- (a) give all parties an opportunity to make representations (subject to [sub-paragraph \(10\)](#)), and
  - (b) have regard to any guidance issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General.
- (10) The first direction in relation to a hearing under [sub-paragraph \(2\)](#) or [\(4\)](#) may be issued by the court or (as the case may be) tribunal of its own accord without having given the parties an opportunity to make representations.
- (11) Where a direction under [sub-paragraph \(2\)](#) or [\(4\)](#) is issued in relation to a hearing as described in [sub-paragraph \(10\)](#), the court or (as the case may be) tribunal must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for the revocation of the direction, and
  - (b) deal with any motion for the direction’s revocation,
- before dealing with any other matter at the hearing, other than a decision to adjourn or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.
- (12) References in [this paragraph](#) to physically attending a court or tribunal are to—
- (a) being in a particular place, or
  - (b) being in the same place as another person,
- for the purpose of any proceedings before a court or tribunal or an office holder of a court or tribunal.

*Suspension of requirement for physical attendance in  
criminal proceedings, excluding trials and certain processes*

- 7 (1) This paragraph—
- (a) applies only in relation to criminal proceedings, but
  - (b) does not apply in relation to—
    - (i) a hearing in which a person is to give evidence, or
    - (ii) proceedings in which the only party is a public official as defined in [paragraph 9\(3\)](#).
- (2) Any requirement (however expressed) that a person physically attend a court does not apply if—

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- (a) a determination made by the Lord Justice General states that it does not, and
  - (b) the court has not directed the person to physically attend.
- (3) A determination under sub-paragraph (2)(a)—
- (a) may, in particular, disapply a requirement for physical attendance—
    - (i) in relation to persons or hearings described in the determination,
    - (ii) by enabling a court to disapply it in circumstances specified in the determination,
  - (b) may make different provision for different purposes and areas,
  - (c) may vary or revoke an earlier determination made under the sub-paragraph,
  - (d) must be made publicly available for so long as it has effect.
- (4) The Lord Justice General may make a determination under sub-paragraph (2)(a) disapplying a requirement for physical attendance only if (taking into account the discretion conferred by sub-paragraph (2)(b)), the Lord Justice General is satisfied that it would not—
- (a) prejudice the fairness of proceedings, or
  - (b) otherwise be contrary to the interests of justice.
- (5) A direction under sub-paragraph (2)(b)—
- (a) may be made by a court on the motion of a party or of its own accord,
  - (b) may revoke an earlier direction made under the sub-paragraph.
- (6) Where, by reason of a determination under sub-paragraph (2)(a), a person is to attend a court hearing by electronic means in accordance with paragraph 8, the court must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for a direction under sub-paragraph (2)(b), and
  - (b) deal with any motion for a direction under that sub-paragraph,
- before dealing with any other matter at the hearing, other than a decision to adjourn or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.
- (7) References in this paragraph to physically attending a court are to be construed in accordance with paragraph 6(12).

*Attending by electronic means*

- 8
- (1) A person excused from a requirement to physically attend a court or tribunal by virtue of [paragraph 6\(2\)](#) or [\(4\)](#) or [7\(2\)\(a\)](#) must instead appear before the court, tribunal or office holder (as the case may be) by electronic means in accordance with a direction issued by the court or tribunal.
  - (2) A person who fails to do so is to be regarded as having failed to comply with the requirement to physically attend from which the person is excused.
  - (3) The power under [sub-paragraph \(1\)](#) to issue a direction includes the power to vary or revoke an earlier direction issued under that sub-paragraph.
  - (4) A direction under [sub-paragraph \(1\)](#)—
    - (a) is to set out how the person is to appear by electronic means before the court, tribunal or office holder, and
    - (b) may include any other provision which the court or tribunal considers appropriate.

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- (5) A court or tribunal may issue a direction under [sub-paragraph \(1\)](#) on the motion of a party or of its own accord.
- (6) Before issuing a direction under [sub-paragraph \(1\)](#), the court or tribunal must—
- (a) give all parties an opportunity to make representations (subject to [sub-paragraph \(7\)](#)), and
  - (b) have regard to any guidance issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General.
- (7) The first direction in relation to a hearing under [sub-paragraph \(1\)](#) may be issued by the court or (as the case may be) tribunal of its own accord without having given the parties an opportunity to make representations.
- (8) Where a direction in relation to a hearing is issued as described in [sub-paragraph \(7\)](#), the court or (as the case may be) tribunal must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for the variation or revocation of the direction, and
  - (b) deal with any motion for the variation or revocation of the direction, before taking a decision about any other matter at the hearing, other than a decision to adjourn, a decision in respect of a motion for a direction under [paragraph 6](#) or [7](#) or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.
- (9) A direction under [sub-paragraph \(1\)](#) setting out—
- (a) how a party to proceedings is to attend by electronic means a hearing in which a person is to give evidence, must provide for the party to use means that enable the party to both see and hear all of the other parties, the judge and (where applicable) the jury and any witness who is giving evidence,
  - (b) how a witness who is to give evidence at a hearing is to attend by electronic means, must provide for the witness to use means that enable all of the parties, the judge and (where applicable) the jury to both see and hear the witness.
- (10) Nothing in [sub-paragraph \(9\)](#) is to be taken to mean that a person is to be enabled to see or hear a witness in a way that measures taken in accordance with an order of the court or tribunal would otherwise prevent.

#### *General directions under [paragraph 8](#)*

- 9 (1) A court or tribunal may—
- (a) issue a direction under [paragraph 8\(1\)](#) that applies for the purpose of all proceedings of a type specified in the direction, provided that the only party to the proceedings is a public official,
  - (b) issue a further direction under [paragraph 8\(1\)](#) overriding, for the purpose of specific proceedings, a general direction issued by virtue of [paragraph \(a\)](#).
- (2) [Paragraph 8\(6\)\(a\)](#) does not apply in relation to a general direction issued by virtue of [sub-paragraph \(1\)\(a\)](#).
- (3) In [this paragraph](#)—  
“public official” means—

- (a) a person who is a public authority and is acting in that capacity, or
  - (b) a person who is acting on behalf of a public authority,
- “public authority” is to be construed in accordance with section 6 of the Human Rights Act 1998.

### CHAPTER 3

#### FURTHER PROVISION

##### *Publication of directions and guidance*

- 10 A person who issues any of the following must make it publicly available for so long as it has effect—
- (a) a direction under [paragraph 3\(2\)](#),
  - (b) a direction under [paragraph 4\(2\)](#) or [\(3\)\(a\)](#),
  - (c) guidance under [paragraph 6\(9\)\(b\)](#),
  - (d) guidance under [paragraph 8\(6\)\(b\)](#).

##### *Transitional provision for directions under earlier enactment*

- 11 (1) A direction under the provision of schedule 4 of the Coronavirus (Scotland) Act 2020 mentioned in the first column of the table below is to be treated as though it were a direction under the provision of [this Part](#) mentioned in the corresponding entry in the second column.

Provision of schedule 4 of the Coronavirus (Scotland) Act 2020 under which the direction was issued	Provision of <a href="#">this Part</a> under which the direction is to be treated as having been issued
paragraph 1(5)	<a href="#">paragraph 3(2)</a>
paragraph 1A(2)	<a href="#">paragraph 4(2)</a>
paragraph 1A(3)(a)	<a href="#">paragraph 4(3)(a)</a>
paragraph 2(1)	<a href="#">paragraph 6(2)</a>
paragraph 2(3)	<a href="#">paragraph 6(4)</a>
paragraph 3(1)	<a href="#">paragraph 8(1)</a>

- (2) A general direction issued by virtue of [paragraph 4\(1\)\(a\)](#) of schedule 4 of the Coronavirus (Scotland) Act 2020 is to be treated as though it were issued by virtue of [paragraph 9\(1\)\(a\)](#).

##### *Interpretation of Part*

- 12 In [this Part](#)—
- “court” means any of the Scottish courts as defined in section 2(6) of the Judiciary and Courts (Scotland) Act 2008,
- “proceedings” includes any process before a court or tribunal, or any office holder of a court or tribunal (for example, a process by which a warrant may be obtained for the purpose of investigating a suspected offence),

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“requirement” means a requirement arising from an enactment or rule of law,  
 “tribunal” means—

- (a) the First-tier Tribunal for Scotland,
- (b) the Upper Tribunal for Scotland.

## PART 2

### FISCAL FINES

#### *Increase of maximum penalty*

- 13 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modification in [sub-paragraph \(2\)](#).
- (2) Section 302(7A) (maximum fixed penalty that may be prescribed) has effect as if for “£300” there were substituted “£500”.

#### *New scale*

- 14 (1) The Criminal Procedure (Scotland) Act 1995 Fixed Penalty Order 2008 ([S.S.I. 2008/108](#)) applies in accordance with the modification in [sub-paragraph \(2\)](#).
- (2) The schedule has effect as if for it there were substituted—

## “SCHEDULE

### *Article 2*

#### THE SCALE OF FIXED PENALTIES

Level on the scale	Amount of fixed penalty
1	£50
2	£75
3	£100
4	£150
5	£200
6	£250
7	£300
8	£400
9	£500”.

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### PART 3

#### FAILURE TO APPEAR BEFORE COURT FOLLOWING POLICE LIBERATION

##### *Power for court to reschedule due to coronavirus*

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

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

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

### PART 4

#### NATIONAL JURISDICTION FOR CALLINGS FROM CUSTODY ETC.

##### *Ability to take calling in any sheriff court and then maintain proceedings*

- 16 (1) A calling of criminal proceedings in the sheriff court to which [sub-paragraph \(2\)](#) applies may be dealt with—
- (a) in any sheriff court in Scotland, and
  - (b) by a sheriff of any sheriffdom.

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- (2) [This sub-paragraph](#) applies to a calling of criminal proceedings in which the person who is the subject of the proceedings is appearing from custody—
- (a) having been arrested by a constable in connection with the matter to which the proceedings relate, and
  - (b) without having subsequently—
    - (i) been released from custody, or
    - (ii) had a court authorise the person’s continued remand in custody.
- (3) If more than one person is the subject of the proceedings, the reference in [sub-paragraph \(2\)](#) to the person who is the subject of the proceedings is to be read as referring to any of them.
- (4) It is for the Lord Advocate or the procurator fiscal to determine in which sheriff court a calling to which [sub-paragraph \(2\)](#) applies is to be taken.
- (5) Where proceedings have come before a sheriff court by virtue of [sub-paragraph \(1\)](#), the proceedings may continue to be dealt with—
- (a) in the same sheriff court, and
  - (b) by a sheriff of any sheriffdom.
- (6) Proceedings may continue to be dealt with by virtue of [sub-paragraph \(5\)](#) until their conclusion, except that—
- (a) in the case of summary proceedings, or proceedings on petition or indictment, insofar as the proceedings relate to a charge in respect of which the accused person has tendered a plea of not guilty which has not been accepted by the prosecutor, they cannot continue to be dealt with by virtue of [sub-paragraph \(5\)](#) after the end of the diet at which that plea was tendered,
  - (b) in the case of proceedings on petition or indictment, they cannot continue to be dealt with by virtue of [sub-paragraph \(5\)](#) after committal of the accused person until liberation in due course of law.
- (7) For the purposes of [sub-paragraph \(5\)](#), proceedings on petition and any subsequent proceedings on indictment are to be treated as the same proceedings.

*Ability of any sheriff court to deal with proceedings following failure to appear*

- 17 (1) [This paragraph](#) applies where—
- (a) a calling of proceedings has come before a sheriff court by virtue of [paragraph 16\(1\)](#), and
  - (b) the proceedings are in respect of an accused person’s failure to attend a diet in summary criminal proceedings or proceedings on indictment (“the principal proceedings”).
- (2) If the principal proceedings are proceedings on indictment, the court may deal with them until the end of the diet in which the calling mentioned in [sub-paragraph \(1\)\(a\)](#) takes place.
- (3) If the principal proceedings are summary criminal proceedings, they may continue to be dealt with—
- (a) in the same sheriff court, and
  - (b) by a sheriff of any sheriffdom,

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unless, and until the end of the diet at which, the accused person tenders a plea of not guilty or confirms that the person is adhering to a previously tendered plea of not guilty and (in either case) that plea is not accepted by the prosecutor.

*Further provision about extra-territorial jurisdiction*

- 18 (1) A sheriff court has jurisdiction for all cases which come before it by virtue of [this Part](#).
- (2) A procurator fiscal for a sheriff court district has—
- (a) power to prosecute or, as the case may be, represent the interests of the prosecutor in any case that comes before the sheriff court of that district by virtue of [this Part](#),
  - (b) the like powers in relation to such cases as the prosecutor has for the purposes of other cases that come before the sheriff when exercising criminal jurisdiction.
- (3) For the purposes of [this Part](#), a sheriff may, without the need for further commission, exercise the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings in every sheriffdom (and the same applies accordingly to any other member of the judiciary, so far as that member has the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings).
- (4) [This Part](#) is without prejudice to sections 4 to 10, 34A and 137C of the Criminal Procedure (Scotland) Act 1995.

*Interpretation of Part*

- 19 (1) In [this Part](#), “criminal proceedings” means any proceedings in which a court is exercising criminal jurisdiction including in particular—
- (a) proceedings on indictment,
  - (b) proceedings on petition,
  - (c) summary proceedings,
  - (d) ancillary proceedings, such as proceedings in respect of—
    - (i) breach of bail,
    - (ii) non-payment of a fine or other monetary penalty,
    - (iii) breach of an order of a court, or
    - (iv) failure of an accused person or a witness to attend a diet.
- (2) Any expression used in [this Part](#) which is also used in the Criminal Procedure (Scotland) Act 1995 has the same meaning as it does in that Act.

## PART 5

### CRIMINAL PROCEDURE TIME LIMITS

#### CHAPTER 1

##### EXTENSION OF PERIODS

###### *Solemn proceedings: periods within which procedural hearings and trial must commence*

- 20 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in [this paragraph](#).
- (2) Section 65(1) (solemn proceedings: prevention of delay in trials) has effect as if—
- (a) in paragraph (a), for “11 months” there were substituted “17 months”,
  - (b) in paragraph (aa), for “11 months” there were substituted “17 months”,
  - (c) in paragraph (b), for “12 months” there were substituted “18 months”.

###### *Summary proceedings: period within which prosecution for statutory offence must commence*

- 21 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in [this paragraph](#).
- (2) Section 136(1) (summary proceedings: time limits) has effect as if for “six months”, in both places where it occurs, there were substituted “12 months”.

###### *Pre-trial and pre-sentence remand period*

- 22 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in [this paragraph](#).
- (2) Section 65(4) (solemn proceedings: prevention of delay in trials) has effect as if—
- (a) in paragraph (a), for “80 days” there were substituted “260 days”,
  - (b) in paragraph (aa)(i), for “110 days” there were substituted “290 days”,
  - (c) in paragraph (aa)(ii), for “140 days” there were substituted “320 days”,
  - (d) in paragraph (b)(i), for “110 days” there were substituted “290 days”,
  - (e) in paragraph (b)(ii), for “140 days” there were substituted “320 days”.
- (3) Section 147(1) (summary proceedings: prevention of delay in trials) has effect as if for “40 days” there were substituted “130 days”.
- (4) Section 200 (remand for inquiry into physical or mental condition) has effect as if—
- (a) in subsection (2), in the closing words, the words “, no single period exceeding three weeks,” were repealed,
  - (b) in subsection (3)(a), the words “not exceeding three weeks” were repealed.

## CHAPTER 2

### ADJOURNMENT PERIODS

#### *Power of court to adjourn cases*

- 23 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in [sub-paragraphs \(2\)](#) to (5).
- (2) Section 145 (adjournment for inquiry at first calling) has effect as if—
- (a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,
  - (b) subsection (3) were repealed.
- (3) Section 145A (adjournment at first calling to allow accused to appear etc.) has effect as if—
- (a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,
  - (b) subsection (3) were repealed.

## PART 6

### PROCEEDS OF CRIME

#### *Making of confiscation order: postponement due to coronavirus*

- 24 (1) The Proceeds of Crime Act 2002 applies in accordance with the modifications in [this paragraph](#).
- (2) Section 99 (postponement) has effect as if—
- (a) after subsection (4) there were inserted—
    - “(4A) For the purpose of subsection (4), “exceptional circumstances”, in relation to proceedings, includes the effect (whether direct or indirect) of coronavirus on the proceedings.”,
  - (b) after subsection (11) there were inserted—
    - “(12) In [subsection \(4A\)](#), “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).”.

## PART 7

### PRISONS AND YOUNG OFFENDERS INSTITUTIONS

#### *Power to release early*

- 25 (1) The Scottish Ministers may by regulations provide that a person of a description specified in the regulations is to be released from prison early on a date that is—
- (a) either—
    - (i) specified in the regulations, or

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- (ii) determined in accordance with provision made in the regulations,  
and
  - (b) not later than the regulations' latest release date.
- (2) The Scottish Ministers may make regulations under [this paragraph](#) only if they are satisfied that making the regulations is necessary and proportionate, in response to the effects that coronavirus is having or is likely to have on a prison or prisons generally, for the purpose of protecting—
  - (a) the security and good order of any prison to which the regulations would relate, or
  - (b) the health, safety or welfare of prisoners, or those working, in any such prison.
- (3) A person is not to be released from prison by virtue of regulations under this paragraph more than 180 days earlier than the Scottish Ministers would otherwise be required to release the person.
- (4) A person is not to be released from prison by virtue of regulations under [this paragraph](#) if—
  - (a) the person falls within [sub-paragraph \(5\)](#), or
  - (b) the governor of the prison within which the person is detained considers that the person would, if released, pose an immediate risk of harm to an identified person.
- (5) A person falls within [this sub-paragraph](#) if the person is—
  - (a) a life prisoner,
  - (b) an untried prisoner,
  - (c) a terrorist prisoner within the meaning of section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
  - (d) due to serve a terrorism sentence within the meaning of section 1B of that Act but, by virtue of that section, is not yet serving it,
  - (e) liable to removal from the United Kingdom for the purposes of section 9 of that Act,
  - (f) subject to a supervised release order under section 209 of the Criminal Procedure (Scotland) Act 1995,
  - (g) serving a sentence passed under section 210A of that Act (extended sentences for sex, violent and terrorist offenders),
  - (h) the subject of proceedings under the Extradition Act 2003,
  - (i) subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or
  - (j) serving a sentence of imprisonment or detention for—
    - (i) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
    - (ii) an offence under section 7(1) or 17(1) of the Domestic Abuse (Protection) (Scotland) Act 2021,
    - (iii) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.
- (6) Regulations under [this paragraph](#) may make different provision for different purposes.
- (7) In [this paragraph](#)—

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

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“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

“governor”, in relation to a prison, means—

- (a) the governor appointed for the prison under section 3(1A) of the Prisons (Scotland) Act 1989, or
- (b) in the case of a contracted out prison, the director appointed for the prison under section 107(1)(a) of the Criminal Justice and Public Order Act 1994,

“latest release date” means a date specified in the regulations in question, which must be a date within the period of 180 days beginning with the day that the regulations are made,

“life prisoner” means a person—

- (a) who is serving a sentence of imprisonment for life,
- (b) who is detained without limit of time or detained for life,
- (c) who is subject to an order for lifelong restriction made under section 210F of the Criminal Procedure (Scotland) Act 1995,
- (d) to whom section 1A(2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies,

“prison” means—

- (a) a prison within the meaning of section 43 of the Prisons (Scotland) Act 1989, and
- (b) a young offenders institution within the meaning of section 19(1)(b) of that Act,

“untried prisoner” means a person who, whether or not in prison for any other reason, is in prison—

- (a) having been committed for examination or trial on a criminal charge,
- (b) by virtue of remand in custody under the Extradition Act 2003,
- (c) by virtue of detention under schedule 2 or 3 of the Immigration Act 1971, or
- (d) following conviction and awaiting sentence.

#### *Parliamentary scrutiny of regulations under [paragraph 25](#)*

- 26 (1) Regulations under [paragraph 25](#) are subject to the affirmative procedure, unless [sub-paragraph \(2\)](#) applies to them.
- (2) [This sub-paragraph](#) applies to regulations if the Scottish statutory instrument containing the regulations includes a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without their being subject to the affirmative procedure.
- (3) Where [sub-paragraph \(2\)](#) applies to regulations—
- (a) section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010 does not apply to the regulations,
  - (b) the Scottish statutory instrument containing the regulations must be laid before the Scottish Parliament as soon as practicable after they are made, and
  - (c) the regulations cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the Scottish statutory instrument containing them is approved by resolution of the Parliament.

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

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- (4) In calculating the period of 28 days mentioned in [sub-paragraph \(3\)\(c\)](#), no account is to be taken of any time during which the Scottish Parliament is—
- (a) in recess for more than 4 days, or
  - (b) dissolved.
- (5) Regulations ceasing to have effect by virtue of [sub-paragraph \(3\)\(c\)](#) neither—
- (a) affects anything done under the regulations before they ceased to have effect, nor
  - (b) prevents new regulations being made under [paragraph 25](#).
- (6) Where [sub-paragraph \(2\)](#) applies to regulations, the Scottish Ministers must explain why they are of the opinion that, by reason of urgency, it is necessary to make the regulations without their being subject to the affirmative procedure.