

Status: Point in time view as at 01/03/2016.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 46

AMENDMENTS OF SERIOUS CRIME ACT 2007: SCOTLAND

1 The Serious Crime Act 2007 is amended as set out in this Schedule.

Commencement Information

11 Sch. 1 para. 1 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

2 (1) Section 1 (serious crime prevention orders) is amended as follows.

(2) After subsection (1) insert—

“(1A) The appropriate court in Scotland may make an order if—

- (a) it is satisfied that a person has been involved in serious crime (whether in Scotland or elsewhere); and
- (b) it has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.”

(3) In subsection (3), after “England and Wales” insert “, Scotland”.

(4) For subsection (5) substitute—

“(5) In this Part—

“appropriate court” means the Court of Session or sheriff;

“serious crime prevention order” means—

- (a) an order under this section;
- (b) an order under section 19 (corresponding order of the Crown Court on conviction); or
- (c) an order under section 22A (corresponding order of the High Court of Justiciary or sheriff on conviction).”

Commencement Information

12 Sch. 1 para. 2 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f) (with art. 4)

3 In section 2 (involvement in serious crime: England and Wales orders), in subsection (6)—

- (a) for “test in section” substitute “tests in sections 2A(1) and”;
- (b) after “serious crime in” insert “Scotland or (as the case may be)”.

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Commencement Information

I3 Sch. 1 para. 3 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

4 After section 2 insert—

“2A Involvement in serious crime: Scotland orders

- (1) For the purposes of this Part, a person has been involved in serious crime in Scotland if he—
 - (a) has committed a serious offence in Scotland;
 - (b) has facilitated the commission by another person of a serious offence in Scotland; or
 - (c) has conducted himself in a way that was likely to facilitate the commission by himself or another person of a serious offence in Scotland (whether or not such an offence was committed).
- (2) In this Part “a serious offence in Scotland” means an offence under the law of Scotland which, at the time when the court is considering the application or matter in question—
 - (a) is specified, or falls within a description specified, in Part 1A of Schedule 1; or
 - (b) is one which, in the particular circumstances of the case, the court considers to be sufficiently serious to be treated for the purposes of the application or matter as if it were so specified.
- (3) For the purposes of this Part, involvement in serious crime in Scotland is any one or more of the following—
 - (a) the commission of a serious offence in Scotland;
 - (b) conduct which facilitates the commission by another person of a serious offence in Scotland;
 - (c) conduct which is likely to facilitate the commission, by the person whose conduct it is or another person, of a serious offence in Scotland (whether or not such an offence is committed).
- (4) For the purposes of section 1(1A)(a), a person has been involved in serious crime elsewhere than in Scotland if he—
 - (a) has committed a serious offence in a country outside Scotland;
 - (b) has facilitated the commission by another person of a serious offence in a country outside Scotland; or
 - (c) has conducted himself in a way that was likely to facilitate the commission by himself or another person of a serious offence in a country outside Scotland (whether or not such an offence was committed).
- (5) In subsection (4) “a serious offence in a country outside Scotland” means an offence under the law of a country outside Scotland which, at the time when the court is considering the application or matter in question—
 - (a) would be an offence under the law of Scotland if committed in or as regards Scotland; and
 - (b) either—

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- (i) would be an offence which is specified, or falls within a description specified, in Part 1A of Schedule 1 if committed in or as regards Scotland; or
 - (ii) is conduct which, in the particular circumstances of the case, the court considers to be sufficiently serious to be treated for the purposes of the application or matter as if it meets the test in sub-paragraph (i).
- (6) The test in subsection (4) is to be used instead of the tests in sections 2(1) and 3(1) in deciding for the purposes of section 1(1A)(a) whether a person has been involved in serious crime in England and Wales or (as the case may be) Northern Ireland.
- (7) An act punishable under the law of a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (5), however it is described in that law.”

Commencement Information

I4 Sch. 1 para. 4 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 5 In section 3 (involvement in serious crime: Northern Ireland orders), in subsection (6)—
- (a) for “test in section 2(1)” substitute “ tests in sections 2(1) and 2A(1) ”;
 - (b) at the end insert “ or (as the case may be) Scotland ”.

Commencement Information

I5 Sch. 1 para. 5 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 6 In section 4 (involvement in serious crime: supplementary), after subsection (4) insert—
- “(4A) The Scottish Ministers may by order amend Part 1A of Schedule 1.
- (4B) The Scottish Ministers may not exercise the power conferred by subsection (4A) in relation to an offence which relates to a reserved matter (within the meaning of the Scotland Act 1998) without the consent of the Secretary of State.”

Commencement Information

I6 Sch. 1 para. 6 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 7 In section 5 (type of provision that may be made by orders), in subsection (2), after “England and Wales”, in both places, insert “ , Scotland ”.

Commencement Information

I7 Sch. 1 para. 7 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 8 In section 7 (other exceptions), after subsection (1) insert—

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“(1A) A person may not be made the subject of a serious crime prevention order in Scotland if the person falls within a description specified by order of the Scottish Ministers.”

Commencement Information

I8 Sch. 1 para. 8 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 9 In section 8 (limited class of applicants for making of orders)—
- (a) omit the word “and” at the end of paragraph (a);
 - (b) after that paragraph insert—
 - “(aa) in the case of an order in Scotland, the Lord Advocate;”.

Commencement Information

I9 Sch. 1 para. 9 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 10 (1) Section 9 (right of third parties to make representations) is amended as follows.
- (2) In each of subsections (1) to (3), after “High Court” insert “ or (in Scotland) the appropriate court ”.
- (3) After subsection (4) insert—
- “(4A) The High Court of Justiciary must, on an application by a person, give the person an opportunity to make representations in proceedings before it arising by virtue of section 24B(3) if it considers that the making or variation of the serious crime prevention order concerned (or a decision not to vary it) would be likely to have a significant adverse effect on that person.”

Commencement Information

I10 Sch. 1 para. 10 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 11 In section 10 (notice requirements in relation to orders), in subsection (4)—
- (a) omit the word “and” at the end of paragraph (a);
 - (b) after that paragraph insert—
 - “(aa) in relation to a serious crime prevention order in Scotland, the Lord Advocate;”.

Commencement Information

I11 Sch. 1 para. 11 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 12 (1) Section 12 (restrictions for legal professional privilege) is amended as follows.
- (2) In subsection (1), after “order” insert “ in England and Wales or Northern Ireland ”.
- (3) After subsection (4) insert—

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“(4A) A serious crime prevention order in Scotland may not require a person to breach any duty of confidentiality of communications which the person could not be required to breach in proceedings before the appropriate court.”

(4) In subsection (5), for “subsection (1) does not” substitute “ subsections (1) and (4A) do not ”.

Commencement Information

I12 Sch. 1 para. 12 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

13 In section 13 (restrictions on excluded material and banking information), in subsection (1)—

- (a) omit the word “and” at the end of paragraph (a);
- (b) after that paragraph insert—

“(aa) in the case of an order in Scotland, any excluded material (as defined by that section (except that “enactment” in subsection (2)(b) of that section is to be taken to include an Act of the Scottish Parliament or an instrument made under such an Act));”.

Commencement Information

I13 Sch. 1 para. 13 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

14 (1) Section 17 (variation of orders) is amended as follows.

(2) After subsection (1) insert—

“(1A) The appropriate court in Scotland may, on an application under this section, vary a serious crime prevention order in Scotland if it has reasonable grounds to believe that the terms of the order as varied would protect the public by preventing, restricting or disrupting involvement, by the person who is the subject of the order, in serious crime in Scotland.”

(3) In each of subsections (6)(a) and (7)(a), after “High Court” insert “ , the appropriate court ”.

Commencement Information

I14 Sch. 1 para. 14 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

15 (1) Section 18 (discharge of orders) is amended as follows.

(2) In subsection (1)—

- (a) omit the word “and” at the end of paragraph (a);
- (b) after that paragraph insert—

“(aa) the appropriate court in Scotland may discharge a serious crime prevention order in Scotland;”.

(3) In each of subsections (5)(a) and (6)(a), after “High Court” insert “ , the appropriate court ”.

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I15 Sch. 1 para. 15 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 16 In section 22 (inter-relationship between different types of order), at the end of the heading insert “ **in England and Wales or Northern Ireland** ”.

Commencement Information

I16 Sch. 1 para. 16 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 17 After that section insert—

“Extension of jurisdiction: Scotland

22A Orders by High Court of Justiciary and sheriff on conviction

- (1) Subsection (2) applies where—
- (a) the High Court of Justiciary (the “High Court”) is dealing with a person who—
 - (i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or
 - (ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or
 - (b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.
- (2) The High Court or (as the case may be) the sheriff may, in addition to dealing with the person in relation to the offence, make an order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.
- (3) The High Court or sheriff making an order by virtue of subsection (2) in the case of a person who is already the subject of a serious crime prevention order in Scotland must discharge the existing order.
- (4) An order under this section may contain—
- (a) such prohibitions, restrictions or requirements; and
 - (b) such other terms;
- as the High Court or (as the case may be) the sheriff considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime in Scotland.
- (5) The powers of the High Court and the sheriff in respect of an order under this section are subject to sections 6 to 15 (safeguards).
- (6) An order must not be made under this section except—

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- (a) in addition to a sentence imposed in respect of the offence concerned; or
 - (b) in addition to an order discharging the person absolutely.
- (7) An order under this section is also called a serious crime prevention order.

22B Powers of High Court of Justiciary and sheriff to vary orders on conviction

- (1) Subsection (2) applies where—
- (a) the High Court of Justiciary (the “High Court”) is dealing with a person who—
 - (i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or
 - (ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or
 - (b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.
- (2) The High Court or (as the case may be) the sheriff may—
- (a) in the case of a person who is the subject of a serious crime prevention order in Scotland; and
 - (b) in addition to dealing with the person in relation to the offence, vary the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.
- (3) A variation under this section may be made only on an application by the Lord Advocate.
- (4) A variation must not be made except—
- (a) in addition to a sentence imposed in respect of the offence concerned; or
 - (b) in addition to an order discharging the person absolutely.
- (5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).

22C Powers of High Court of Justiciary and sheriff to vary or replace orders on breach

- (1) Subsection (2) applies where—
- (a) the High Court of Justiciary (the “High Court”) is dealing with a person who—
 - (i) has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a

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- serious crime prevention order and has been remitted to the High Court to be dealt with, or
- (ii) has been convicted by or before the High Court of having committed an offence under section 25 in relation to a serious crime prevention order; or
- (b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a serious crime prevention order.
- (2) The High Court or (as the case may be) the sheriff may—
- (a) in the case of an order in Scotland; and
- (b) in addition to dealing with the person in relation to the offence;
- vary or replace the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied, or the new order, would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.
- (3) An order may be varied or replaced under this section only on an application by the Lord Advocate.
- (4) A variation or new order must not be made except—
- (a) in addition to a sentence imposed in respect of the offence concerned; or
- (b) in addition to an order discharging the person absolutely.
- (5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).
- (6) A reference in this section to replacing a serious crime prevention order is to making a new serious crime prevention order and discharging the existing one.

22D Inter-relationship between different types of orders in Scotland

- (1) A serious crime prevention order made under section 1(1A) or varied under section 17(1A) may be varied under section 22B(2) or 22C(2).
- (2) The fact that a serious crime prevention order made under section 1(1A) or varied under section 17(1A) has been varied under section 22B(2) or 22C(2) does not prevent it from being varied or discharged by the appropriate court.
- (3) A decision by the High Court of Justiciary or (as the case may be) the sheriff not to make an order under section 22A does not prevent a subsequent application to the appropriate court for an order under section 1(1A) in consequence of the same offence.
- (4) Where a serious crime prevention order is made under section 1(1A) or varied under section 17(1A), a decision by the High Court of Justiciary or (as the case may be) the sheriff not to vary the order under section 22B(2) or 22C(2) does not prevent a subsequent application under section 17(1A) for a variation of the order in consequence of the same offence.”

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I17 Sch. 1 para. 17 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f) (with art. 5)

18 After section 24 insert—

“24A Additional right of appeal from Court of Session

- (1) An appeal may be made to the Inner House of the Court of Session in relation to a decision of the Outer House of the Court of Session—
 - (a) to make a serious crime prevention order;
 - (b) to vary, or not to vary, such an order; or
 - (c) to discharge or not to discharge such an order;by any person who was given an opportunity to make representations in the proceedings concerned by virtue of section 9(1), (2) or (as the case may be) (3).
- (2) Subsection (1) is without prejudice to the rights of the person who is the subject of the order and the Lord Advocate to make appeals, under section 28 of the Court of Session Act 1988, in relation to any judgments or orders of the Outer House of the Court of Session about serious crime prevention orders.

24B Appeals from High Court of Justiciary and sheriff

- (1) The following are to be taken to be a sentence for the purpose of an appeal—
 - (a) a serious crime prevention order made under section 22A;
 - (b) the variation under section 22B or 22C of an order made under section 22A;
 - (c) the discharge of an order made under section 22A.
- (2) If the Lord Advocate considers that a decision of the High Court of Justiciary or the sheriff under section 22A not to make a serious crime prevention order was inappropriate, the Lord Advocate may appeal against the decision.
- (3) In addition, an appeal may be made in relation to a decision of the High Court of Justiciary or the sheriff—
 - (a) to make a serious crime prevention order under section 22A; or
 - (b) to vary, or not to vary, such an order under section 22B or 22C;by any person who was given an opportunity to make representations in the proceedings concerned by virtue of section 9(4A).”

Commencement Information

I18 Sch. 1 para. 18 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 19 (1) Section 27 (powers to wind up companies etc: England and Wales and Scotland) is amended as follows.
- (2) In the heading omit the words “**and Scotland**”.
 - (3) In subsection (12) omit the words “or Scotland”—

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- (a) in paragraph (a) of the definition of “company”;
- (b) in the definition of “the court”.

Commencement Information

I19 Sch. 1 para. 19 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

20 After section 27 insert—

“27A Powers to wind up companies etc: Scotland

- (1) The Scottish Ministers may present a petition to the court for the winding up of a company or relevant body, or the dissolution of a partnership, if—
 - (a) the company, relevant body or partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the Scottish Ministers consider that it would be in the public interest for the company or (as the case may be) relevant body to be wound up or the partnership to be dissolved.
- (2) The Insolvency Act 1986 applies in relation to—
 - (a) a petition under this section for the winding up of a company; and
 - (b) the company's winding up;
 as it applies in relation to a petition under section 124A of the Act of 1986 for the winding up of a company and the company's winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).
- (3) Section 124(4)(b) of the Act of 1986 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Scottish Ministers.
- (4) The court may make an order under section 125 of the Act of 1986 (powers of court on hearing of petition) to wind up the company only if—
 - (a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the company to be wound up.
- (5) Where a petition is made to the court under this section for the dissolution of a partnership, the court may make an order to dissolve the partnership only if—
 - (a) the partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the partnership to be dissolved.
- (6) Where the court makes an order to dissolve a partnership under this section, the Partnership Act 1890 applies in respect of the dissolution as if it were a dissolution under section 35 of that Act.
- (7) The appropriate Minister may by order provide for the Act of 1986 to apply, with such modifications as that person considers appropriate, in relation to

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a petition under this section for the winding up of a relevant body and the relevant body's winding up.

- (8) An order made by virtue of subsection (7) must ensure that the court may make an order to wind up the relevant body only if—
- (a) the relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
 - (b) the court considers that it is just and equitable for the relevant body to be wound up.
- (9) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—
- (a) an appeal against conviction for the offence concerned has been made and not finally determined; or
 - (b) the period during which such an appeal may be made has not expired.
- (10) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—
- (a) the company or relevant body is already being wound up by the court, or
 - (b) the partnership is already being dissolved by the court.
- (11) In deciding for the purposes of subsection (9) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.
- (12) In this section—
- “appropriate Minister” means—
 - (a) in relation to a relevant body falling within paragraphs (a) to (c) of the definition of “relevant body” below, the Treasury; and
 - (b) in relation to any other relevant body, the Scottish Ministers;
 - “company” means—
 - (a) a company registered under the Companies Act 2006 in Scotland, or
 - (b) an unregistered company within the meaning of Part 5 of the Insolvency Act 1986 (see section 220 of that Act),but does not include a relevant body;
 - “the court”, in relation to a company, means a court in Scotland having jurisdiction to wind up the company;
 - “partnership” does not include a relevant body; and
 - “relevant body” means—
 - (a) a building society (within the meaning of the Building Societies Act 1986);
 - (b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992);
 - (c) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014;
 - (d) a limited liability partnership; or

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(e) such other description of person as may be specified by order made by the Scottish Ministers;

and the references to sections 124 to 125 of the Insolvency Act 1986 include references to those sections as applied by section 221(1) of that Act (unregistered companies).”

Commencement Information

I20 Sch. 1 para. 20 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

21 (1) Section 29 (powers to wind up: supplementary) is amended as follows.

(2) After subsection (1) insert—

“(1ZA) The Scottish Ministers may by order make such modifications as they consider appropriate to the application of the Insolvency Act 1986 by virtue of section 27A(2).”

(3) In subsection (2)—

- (a) after “subsection (1)” insert “, (1ZA) ”;
- (b) after “section 27(3) and (4)” insert “, 27A(3) and (4) ”.

(4) After subsection (3) insert—

“(3ZA) The Scottish Ministers may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, as they consider appropriate in connection with section 27A(2) to (4).”

(5) In subsection (4)—

- (a) after “section 27(5) or (6)” insert “, 27A(7) ”;
- (b) after “subsection (1)” insert “, (1ZA) ”;
- (c) after “enactment” insert “ including, in the case of an order made by virtue of section 27A(7) or subsection (1ZA) above, an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. ”

Commencement Information

I21 Sch. 1 para. 21 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

22 (1) Section 31 (other partnerships) is amended as follows.

(2) In subsection (3), after “England and Wales”, in both places, insert “, Scotland, ”.

(3) In subsection (6)(b) omit sub-paragraph (ii).

Commencement Information

I22 Sch. 1 para. 22 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

23 In section 32 (unincorporated associations) omit sub-paragraph (ii) of subsection (5)(b).

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I23 Sch. 1 para. 23 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 24 In section 34 (providers of information society services), in subsection (2)(a)—
- (a) omit the word “and” at the end of sub-paragraph (i);
 - (b) after that sub-paragraph insert—
 - “(ia) in the case of an order in Scotland, serious crime in Scotland;”.

Commencement Information

I24 Sch. 1 para. 24 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 25 After section 36 insert—

“36A Proceedings in the High Court of Justiciary and sheriff court

- (1) Proceedings before the High Court of Justiciary (the “High Court”) or the sheriff arising by virtue of section 22A, 22B, 22C or 22E are civil proceedings.
- (2) One consequence of this is that the standard of proof to be applied by the High Court or (as the case may be) the sheriff in such proceedings is the civil standard of proof.
- (3) Two other consequences of this are that the High Court or (as the case may be) the sheriff—
 - (a) is not restricted to considering evidence that would have been admissible in the criminal proceedings in which the person concerned was convicted; and
 - (b) may adjourn any proceedings in relation to a serious crime prevention order even after sentencing the person concerned.
- (4) Despite subsection (1), an Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 (Acts of Adjournal) may be made in relation to proceedings before the High Court or the sheriff arising by virtue of section 22A, 22B, 22C or 22E.
- (5) A serious crime prevention order may be made as mentioned in section 22A(6)(b) in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995 (which relate to orders discharging a person absolutely and their effect).
- (6) A variation of a serious crime prevention order may be made as mentioned in section 22B(4)(b), or (as the case may be) a variation of or a new serious crime prevention order may be made as mentioned in section 22C(4)(b), in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995.”

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Commencement Information

I25 Sch. 1 para. 25 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 26 In section 39 (compliance with orders: authorised monitors), in the definition of “law enforcement agency” in subsection (10), after paragraph (zc) insert—
 “(zd) the chief constable of the Police Service of Scotland;”.

Commencement Information

I26 Sch. 1 para. 26 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 27 (1) Section 40 (costs in relation to authorised monitors) is amended as follows.
- (2) In subsection (5), for “recoverable as if” substitute “recoverable—
 (a) in England and Wales and Northern Ireland, as if”.
- (3) At the end of that subsection insert—
 “(b) in Scotland, in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”
- (4) After subsection (6) insert—
 “(6A) Where any amounts required to be paid by virtue of section 39(4) and (5) are, in the case of a serious crime prevention order made under section 22A, not paid within a required period, the unpaid balance from time to time carries interest at the rate payable under a decree of the Court of Session.”
- (5) In subsection (9), after paragraph (a) insert—
 “(aa) in relation to serious crime prevention orders in Scotland, the Scottish Ministers;”.

Commencement Information

I27 Sch. 1 para. 27 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 28 In section 43 (index of defined expressions), at the appropriate places insert—

“appropriate court	section 1(5)”
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“involvement in serious crime: Scotland sections 2A, 4 and 31(3)” orders	
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“serious offence in Scotland	section 2A(2)”
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Commencement Information

I28 Sch. 1 para. 28 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

Status: Point in time view as at 01/03/2016.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

- 29 In section 89 (orders)—
- (a) in subsection (1), for “, the Treasury or the Scottish Ministers” substitute “ or the Treasury ”;
 - (b) in subsection (2)—
 - (i) for “or the Treasury” substitute “ , the Treasury or the Scottish Ministers ”;
 - (ii) at the end insert “ or the Scottish Ministers consider appropriate. ”;
 - (c) in subsection (6)—
 - (i) for “statutory instrument” substitute “ the Secretary of State or the Treasury ”;
 - (ii) after “27(6) or (12),” insert “ , 27A(7) ”;
 - (d) after subsection (6) insert—
 - “(6A) An order under section 4(4A) is subject to the affirmative procedure.
 - “(6B) An order made by the Scottish Ministers under section 7(1A), 27A(7) or (12), 29(1ZA) or (3ZA) or 40 is subject to the negative procedure.”

Commencement Information

I29 Sch. 1 para. 29 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 30 In section 93 (extent), in subsection (2) (provisions that extend to England and Wales and Northern Ireland only) omit paragraph (a).

Commencement Information

I30 Sch. 1 para. 30 in force at 1.3.2016 by S.I. 2016/148, reg. 3(f)

- 31 In Schedule 1 (serious offences), after Part 1 insert—

“PART 1A

SERIOUS OFFENCES IN SCOTLAND

Drug trafficking

- 16A (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
 - (b) section 5(3) (possession of controlled drug with intent to supply);
 - (c) section 6 (restriction of cultivation of cannabis plant);
 - (d) section 8 (permitting etc certain activities relating to controlled drugs);

Status: Point in time view as at 01/03/2016.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

- (e) section 20 (assisting in or inducing the commission outside the United Kingdom of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
 - (a) section 50(2) or (3) (improper importation of goods);
 - (b) section 68(2) (exportation of prohibited or restricted goods);
 - (c) section 170 (fraudulent evasion of duty etc).
- (3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990—
 - (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
 - (b) section 19 (using a ship for illicit traffic in controlled drugs).

People trafficking

- 16B (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc).
- (2) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).

Firearms offences

- 16C (1) An offence under any of the following provisions of the Firearms Act 1968—
 - (a) section 1(1) (possession etc of firearms or ammunition without certificate);
 - (b) section 2(1) (possession etc of shot gun without certificate);
 - (c) section 3(1) (dealing etc in firearms or ammunition by way of trade or business without being registered);
 - (d) section 5(1), (1A) or (2A) (possession, manufacture etc of prohibited weapons).
- (2) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—
 - (a) section 68(2) (exportation of prohibited or restricted goods);
 - (b) section 170 (fraudulent evasion of duty etc).
- (3) In sub-paragraph (2) “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968.

Prostitution, child sex and pornography

- 16D (1) An offence under any of the following provisions of the Criminal Law Consolidation (Scotland) Act 1995—

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Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

- (a) section 11(1) (living on earnings of prostitution or soliciting for immoral purposes);
 - (b) section 11(4) (aiding, abetting or compelling prostitution for gain);
 - (c) section 11(5) (running of brothels).
- (2) An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc).
- (3) An offence under any of the following provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005—
- (a) section 10 (causing or inciting provision by child of sexual services or child pornography);
 - (b) section 11 (controlling a child providing sexual services or involved in pornography);
 - (c) section 12 (arranging or facilitating provision by child of sexual services or child pornography).
- (4) An offence under section 51(2) of the Civic Government (Scotland) Act 1982 (obscene material).

Serious organised crime

- 16E (1) An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 28(1) (involvement in serious organised crime);
 - (b) section 30(1) or (2) (directing serious organised crime).
- (2) An offence aggravated by a connection with serious organised crime as mentioned in section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime).

Money laundering

- 16F An offence under any of the following provisions of the Proceeds of Crime Act 2002—
- (a) section 327 (concealing etc criminal property);
 - (b) section 328 (facilitating the acquisition etc of criminal property by or on behalf of another);
 - (c) section 329 (acquisition, use and possession of criminal property).

Offences in relation to public revenue

- 16G (1) An offence under section 170 of the Customs and Excise Management Act 1979 (fraudulent evasion of duty etc) so far as not falling within paragraph 16A(2)(c) or 16C(2)(b) above.
- (2) An offence under section 72 of the Value Added Tax Act 1994 (fraudulent evasion of VAT etc).

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Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

- (3) An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).
- (4) An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).

Bribery

- 16H An offence under any of the following provisions of the Bribery Act 2010—
- (a) section 1 (offences of bribing another person);
 - (b) section 2 (offences relating to being bribed);
 - (c) section 6 (bribery of foreign public officials).

Counterfeiting

- 16I An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981—
- (a) section 14 (making counterfeit notes or coins);
 - (b) section 15 (passing etc counterfeit notes or coins);
 - (c) section 16 (having custody or control of counterfeit notes or coins);
 - (d) section 17 (making or having custody or control of counterfeiting materials or implements).

Fraud etc

- 16J (1) An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents, etc).
- (2) Fraud.
 - (3) Conspiracy to defraud.
 - (4) Theft.
 - (5) Extortion.
 - (6) Assault and robbery.

Computer misuse

- 16K An offence under any of the following provisions of the Computer Misuse Act 1990—
- (a) section 1 (unauthorised access to computer material);
 - (b) section 2 (unauthorised access with intent to commit or facilitate commission of further offences);
 - (c) section 3 (unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc);
 - (d) section 3ZA (unauthorised acts causing, or creating risk of, serious damage to human welfare etc);

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- (e) section 3A (making, supplying or obtaining articles for use in offence under section 1, 3 or 3ZA).

Intellectual property

- 16L (1) An offence under section 297A of the Copyright, Designs and Patents Act 1988 (making or dealing etc in unauthorised decoders).
- (2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (unauthorised use of trade mark etc).

Environment

- 16M (1) An offence under any of the following provisions of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003—
- (a) section 1 (fishing for salmon: methods);
- (b) section 2 (fishing for freshwater fish: methods);
- (c) section 5 (using explosive or other noxious substances for taking or destruction of fish etc).
- (2) An offence under section 14 of the Wildlife and Countryside Act 1981 (introduction of new species etc).
- (3) An offence under section 33 of the Environmental Protection Act 1990 (prohibition on unauthorised or harmful deposit, treatment or disposal etc of waste).
- (4) An offence under regulation 8 of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) (purchase and sale etc of endangered species and provision of false statement and certificates).

Inchoate offences

- 16N An offence of attempting or conspiring to commit an offence specified or described in this Part of this Schedule.

Earlier offences

- 16O This Part of this Schedule has effect, in its application to conduct before the coming into force of this Part, as if the offences specified or described in this Part included any corresponding offences under the law in force at the time of the conduct.

Scope of offences

- 16P Where this Part of this Schedule refers to offences which are offences under the law of Scotland and another country, the reference is to be read as limited to the offences so far as they are offences under the law of Scotland.”

Status: Point in time view as at 01/03/2016.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1. (See end of Document for details)

Commencement Information

I31 [Sch. 1 para. 31](#) in force at 1.3.2016 by [S.I. 2016/148](#), [reg. 3\(f\)](#)

Status:

Point in time view as at 01/03/2016.

Changes to legislation:

There are currently no known outstanding effects for the Serious Crime Act 2015, SCHEDULE 1.