



Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

1985 CHAPTER 73

Criminal courts, procedure, evidence and justice

33 Establishment and disestablishment of district courts.

After section 1 of the ^{M1}District Courts (Scotland) Act 1975 there shall be inserted the following section—

“1A Further provision as to establishment and disestablishment of district courts.

- (1) Where it appears to the Secretary of State that—
 - (a) there is insufficient business for the district court in a particular commission area; and
 - (b) such insufficiency of business is likely to continue,he may by order provide that the district court for that area cease to exist on a specified date.
- (2) Where it appears to the Secretary of State that, in a commission area in which there is no district court, there is likely to be sufficient business to justify the establishment of such a court, he may by order provide for the establishment of such a court in that area on a specified date.
- (3) An order under subsection (1) or (2) above may contain all such provisions as appear to the Secretary of State to be necessary or expedient for rendering the order of full effect and any incidental, supplemental or consequential provisions which appear to him to be necessary or expedient for the purposes of the order, including, but without prejudice to the generality of the foregoing words, provisions amending, repealing or revoking any enactment (whether passed or made before or after the commencement of this enactment).

Status: Point in time view as at 01/04/1996.

Changes to legislation: Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, Cross Heading: Criminal courts, procedure, evidence and justice is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Before making an order under subsection (1) or (2) above, the Secretary of State shall consult the district or islands council for the area concerned, and such other persons as appear to him to have an interest in the proposed order.
- (5) Orders under subsection (1) or (2) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Marginal Citations

M1 1975 c. 20.

34 Power of Secretary of State to remove justices etc.

In the ^{M2}District Courts (Scotland) Act 1975—

- (a) at the end of subsection (7) of section 11 (which relates to ex officio justices) there shall be inserted the words “ and, notwithstanding that he remains a duly nominated member of the authority, may be removed from office in like manner as a justice appointed under that section. ”;
- (b) in subsection (2) of section 15 (which relates to the supplemental list of justices), at the end of paragraph (a) there shall be inserted—
- “(aa) that by reason of the justice’s conduct it is expedient that he should cease to exercise judicial functions as a justice for the area; or”

Marginal Citations

M2 1975 c. 20.

35 Provisions as to persons arrested in respect of terrorism.

After section 3 of the ^{M3}Criminal Justice (Scotland) Act 1980 there shall be inserted the following sections—

“3A Rights of persons arrested or detained in connection with terrorism.

- (1) A person who has been arrested or detained under the terrorism provisions and who is in detention in a police station or other premises shall be entitled to have imitation of his detention and of the place where he is being detained sent without delay to a solicitor and to another person reasonably named by him :

Provided that a police officer not below the rank of superintendent may authorise a delay (not extending longer than the period of 48 hours from the start of the detention) where, in his view, such delay is necessary on one of the grounds mentioned in section 3C(3) of this Act.

- (2) Where a person arrested or detained under the terrorism provisions requests that the intimation be made, there shall be recorded the time when such request is—
- (a) made; and
- (b) complied with.

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- (3) A person arrested or detained under the terrorism provisions shall be entitled to consult a solicitor at any time, without delay :

Provided that a police officer not below the rank of superintendent may authorise a delay (not extending longer than the period of 48 hours from the start of the detention) where, in his view, such delay is necessary on one of the grounds mentioned in section 3C(3) of this Act.

- (4) Subject to section 3C of this Act the consultation provided for in subsection (3) above shall be private.

3B Provisions as to children detained in connection with terrorism.

- (1) Subject to the provisions of this section the provisions of section 3A of this Act apply to children as they apply to adults.

- (2) Without prejudice to—

- (a) subsection (3) of this section ; or
- (b) his entitlement, in terms of section 3A(1), to have intimation of his detention and of the place where he is being detained sent to a solicitor—

a person arrested or detained under the terrorism prevention provisions who appears to a constable to be a child shall not be entitled to have such intimation sent to any other person named by them.

- (3) Where it appears to a constable that a person arrested or detained under the terrorism provisions is a child, he shall, subject to subsection (4), without delay—

- (a) send intimation of the arrest or detention and of the place where the child is being held to his parent (if known) ; and
- (b) allow such parent access to the child.

- (4) A police officer not below the rank of superintendent may authorise—

- (a) a delay in compliance with the duty mentioned in subsection (3)(a) above ;
- (b) non-compliance with the duty mentioned in subsection (3)(b) above,

where such delay or, as the case may be, non-compliance is, in his view, necessary on one of the grounds mentioned in section 3C of this Act :

Provided that any such delay in compliance with the duty mentioned in subsection (3)(a) shall not extend longer than the period of 48 hours from the start of the detention.

- (5) There shall be recorded the time at which the intimation mentioned in subsection (3)(a) is made.

- (6) Subject to section 3C of this Act the access mentioned in subsection (3)(b) above shall be private.

- (7) Where a child is, by virtue of any enactment, in the care either of a local authority or of a voluntary organisation, the intimation shall be either to the authority or organisation or to the parent, and the right of access shall be exercisable both by an officer of the authority or organisation and by the

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parent ; and subsections (4) and (6) above and section 3C of this Act shall apply in relation to intimation and access under this subsection as they apply to intimation and access under subsection (3) above.

3C Provisions relating to consultations and access in connection with terrorism.

- (1) An officer not below the rank of Assistant Chief Constable may direct that the consultation or access mentioned in sections 3A(3) and 3B(3) of this Act respectively be in the presence of a uniformed officer not below the rank of inspector if it appears to the officer giving the direction to be necessary on one of the grounds mentioned in subsection (3) below.
- (2) A uniformed officer directed to be present during a consultation or, as the case may be, access shall be an officer who, in the opinion of the officer giving the direction, has no connection with the case.
- (3) The grounds mentioned in section 3A(1), 3A(3) and 3B(4) of this Act and in subsection (1) above are that it is in the interests of the investigation or prevention of crime, or of the apprehension, prosecution or conviction of offenders.
- (4) Where delay or non-compliance is authorised in the exercising of any of the rights or, as the case may be, the carrying out of any of the duties, mentioned in sections 3A(1), 3A(3) and 3B(3) of this Act, there shall be recorded the reason for such delay or non-compliance.

3D Interpretation and effect of sections 3A to 3D.

- (1) In section 3A to 3C and this section of this Act—
 - (a) “terrorism provisions” means—
 - (i) section 12(1) of the Prevention of Terrorism (Temporary Provisions) Act 1984 ; or
 - (ii) any provisions conferring a power of arrest or detention and contained in an order under section 13 of that Act ; and
 - (b) “child” and “parent” have the same meanings as they have in section 3 of this Act.
- (2) The provisions of sections 3A to 3C and this section of this Act shall have effect, in relation to persons arrested or detained under the terrorism provisions, in place of any enactment or rule of law under or by virtue of which a person arrested or detained may be entitled to communicate or consult with any other person.”.

<p>Marginal Citations M3 1980 c. 62.</p>
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Textual Amendments

F1 S. 36 repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5** (with Sch. 3 paras 1, 3)

F2 **37**

Textual Amendments

F2 S. 37 repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5** (with Sch. 3 paras 1, 3)

38 **F3**

Textual Amendments

F3 S. 38 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, **Sch. 1**, **Sch. 4** paras. 1, 2

39 **F4**

Textual Amendments

F4 S. 39 repealed by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(2), **Sch. 2**

F5 **40**

Textual Amendments

F5 S. 40 repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5** (with Sch. 3 paras 1, 3)

41 Penalties under food and drugs legislation.

In the ^{M4}Food and Drugs (Scotland) Act 1956—

- (a) in subsection (1)(a) of section 40 (which relates to penalties) the words from “or to imprisonment” to “offence is continued” shall cease to have effect ;
- (b) in subsection (1)(b) the words from “and”, where it occurs for the second time, to the end shall cease to have effect ;
- (c) in subsection (8A) of section 56 (which specifies certain maximum penalties)
 - (i) in paragraph (a) the words “or imprisonment for a term not exceeding 6 months or both” shall cease to have effect ; and
 - (ii) in paragraph (b)(i) the words “or imprisonment for a term not exceeding 6 months or both” shall cease to have effect.

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Marginal Citations

M4 1956 c. 30.

42 **F6**

Textual Amendments

F6 Ss. 42, 44, 45 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), **Sch. 3**

F7 **43**

Textual Amendments

F7 S. 43 repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5** (with **Sch. 3** paras 1, 3)

44, 45. **F8**

Textual Amendments

F8 Ss. 42, 44, 45 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), **Sch. 3**

46 Post-release supervision of service offenders.

(1) In section 71AA of the ^{M5}Army Act 1955 and the ^{M6}Air Force Act 1955 respectively and section 43AA of the ^{M7}Naval Discipline Act 1957 (custodial orders), after subsection (6A) in each case there shall be substituted the following subsection—

“(6B) Section 12 of the Criminal Justice (Scotland) Act 1963 (supervision of young offenders following release) shall apply to persons released from a term of detention under a custodial order as it applies to those releases from a term of detention imposed under section 207 or section 415 of the Criminal Procedure (Scotland) Act 1975.”

(2) In paragraph 10 of Schedule 5A to the ^{M8}Army Act 1955 and to the ^{M9}Air Force Act 1955 respectively and Schedule 4A to the ^{M10}Naval Discipline Act 1957 (custodial orders), after sub-paragraph (6A) in each case there shall be inserted the following sub-paragraph—

“(6B) Section 12 of the Criminal Justice (Scotland) Act 1963 (supervision of young offenders following release) shall apply to persons released from a term of detention under a custodial order as it applies to those released from a term of detention imposed under section 207 or section 415 of the Criminal Procedure (Scotland) Act 1975.”

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Marginal Citations

- M5** 1955 c. 18.
- M6** 1955 c. 19.
- M7** 1957 c. 53.
- M8** 1955 c. 18.
- M9** 1955 c. 19.
- M10** 1957 c. 53.

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