

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: Environment Act 1995, SCHEDULE 17 is up to date with all changes known to be in force on or before 14 July 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)*

## SCHEDULES

### SCHEDULE 17 **E+W+S**

Section 107.

#### STATUTORY NUISANCES: SCOTLAND

##### *Amendments of the Environmental Protection Act 1990*

- 1 The <sup>M1</sup>Environmental Protection Act 1990 shall be amended in accordance with the provisions of paragraphs 2 to 7 of this Schedule.

#### Marginal Citations

**M1** 1990 c. 43.

- 2 In section 79 (statutory nuisances etc)—
- (a) in subsection (1)(ga) after the word “street” there shall be inserted the words “ or in Scotland, road ”;
  - (b) in subsection (7)—
    - (i) in the definition of “local authority”, before the word “outside” in paragraph (b) there shall be inserted “in England and Wales”, the word “and” after paragraph (b) shall cease to have effect, and after paragraph (c) there shall be inserted “and
      - (d) in Scotland, a district or islands council or a council constituted under section 2 of the <sup>M2</sup>Local Government etc (Scotland) Act 1994;”;
    - (ii) in the definition of “premises” after the word “and” where it second occurs there shall be inserted the words “ , in relation to England and Wales, ”;
    - (iii) at the appropriate place there shall be inserted—

““road” has the same meaning as in Part IV of the New Roads and Street Works Act 1991;”;
  - (c) in subsection (8)—
    - (i) after the words “port health district” where they first occur there shall be inserted the words “ or in Scotland where by an order under section 172 of the <sup>M3</sup>Public Health (Scotland) Act 1897 a port local authority or a joint port local authority has been constituted for the whole or part of a port, ”;
    - (ii) after the words “port health authority” where they second occur there shall be inserted the words “ , port local authority or joint port local authority, as the case may be ”;
  - (d) in subsection (10) after the words “or (e)” there shall be inserted “ and, in relation to Scotland, paragraph (g) or (ga), ”;

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- (e) in subsection (11) after the words “subsection (12) and” there shall be inserted the words “, in relation to England and Wales,”.

**Marginal Citations**

**M2** 1994 c. 39.

**M3** 1897 c. 38.

- 3 In section 80 (summary proceedings) in subsection (3) after the words “magistrate’s court” there shall be inserted the words “ or in Scotland, the sheriff”;
- 4 In section 81 (supplementary provisions)—
- (a) in subsection (2) after the words “magistrate’s court” there shall be inserted the words “ or in Scotland, the sheriff”;
- (b) in subsection (3) after the word “offence” there shall be inserted the words “ or, in Scotland, whether or not proceedings have been taken for an offence,”;
- (c) in subsection (4) after the word “court” where it first occurs there shall be inserted the word “ or sheriff” and after the words “court consider” there shall be inserted the words “ or sheriff considers”;
- (d) in subsection (5) after the words “High Court” there shall be inserted the words “ or, in Scotland, in any court of competent jurisdiction,”.
- 5 In section 81A at the end, as subsection (10), and in section 81B at the end, as subsection (6), there shall be added—
- “(0) This section does not apply to Scotland.”.
- 6 In section 82 (proceedings by persons aggrieved)—
- (a) in subsection (1) after the word “complaint” there shall be inserted the words “ or, in Scotland, the sheriff may act under this section on a summary application,”;
- (b) in subsection (2)—
- (i) after the words “magistrate’s court” there shall be inserted the words “ or, in Scotland, the sheriff”;
- (ii) after the word “street” there shall be inserted the words “ or, in Scotland, road”;
- (iii) after the words “the court” there shall be inserted the words “ or the sheriff”;
- (iv) in paragraph (a) after the word “defendant” there shall be inserted the words “ or, in Scotland, defender”;
- (v) in paragraph (b) after the word “defendant” there shall be inserted the words “ or defender”;
- (vi) after the word “and” where it third occurs there shall be inserted the words “, in England and Wales,”;
- (c) in subsection (3), after the words “magistrate’s court” there shall be inserted the words “ or the sheriff” and after the words “of the court” in both places where they occur there shall be inserted the words “ or of the sheriff”;
- (d) in subsection (11), after the words “magistrate’s court” there shall be inserted the words “ or the sheriff”;
- (e) in subsection (12) after the word “complaint” there shall be inserted the words “ or summary application”, after the words “the court” in both places

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where they occur there shall be inserted the words “ or the sheriff ” and for the words “defendant (or defendants” there shall be substituted the words “ defendant or defender (or defendants or defenders ”;

- (f) in subsection (13), after the words “ magistrate’s court ” there shall be inserted the words “or to the sheriff” and after the words “ the court ” in both place where they occur there shall be inserted the words “or the sheriff”.

7 In Schedule 3 (statutory nuisance; supplementary provisions)—

- (a) after paragraph 1 there shall be inserted—

#### “Appeals to Sheriff

1A (1) This paragraph applies in relation to appeals to the sheriff under section 80(3) against an abatement notice.

(2) An appeal to which this paragraph applies shall be by way of a summary application.

(3) The Secretary of State may make regulations as to appeals to which this paragraph applies and the regulations may in particular include or prescribe any of the matters referred to in sub-paragraphs (4)(a) to (d) of paragraph 1 above.”;

- (b) in paragraph 2 at the end there shall be added—

“(8) In the application of this paragraph to Scotland, a reference to a justice of the peace or to a justice includes a reference to the sheriff.”;

- (c) in paragraph 2A(1)(b) after the word “street” there shall be inserted the words “ or, in Scotland, road ”;

- (d) in paragraph 4 at the end there shall be added—

“(9) This paragraph does not apply to Scotland.”;

- (e) in paragraph 6 after the words “magistrate’s court” there shall be inserted the words “ or, in Scotland, the sheriff ”.

#### *Amendments of the Radioactive Substances Act 1993*

8 In the <sup>M4</sup>Radioactive Substances Act 1993, in Part II of Schedule 3—

- (a) in paragraph 12, for the words “Sections 16 and 17” there shall be substituted the words “ Section 16 ”;

- (b) at the end there shall be added—

“17A Part III of the <sup>M5</sup>Environmental Protection Act 1990.”.

#### Marginal Citations

M4 1993 c. 12.

M5 1990 c. 43.

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