

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Road Traffic Offenders Act 1988 (c. 53)

- 71 (1) The Road Traffic Offenders Act 1988 shall be amended as follows.
- (2) In subsection (5) of section 6 (time limit for commencement of summary proceedings), for the words “section 331 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 136 of the Criminal Procedure (Scotland) Act 1995”.
- (3) In subsection (6) of section 24 (alternative verdicts) for the words “sections 61, 63, 64, 312 and 457A of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “sections 295, 138(4), 256 and 293 of and Schedule 3 to the Criminal Procedure (Scotland) Act 1995”.
- (4) In subsection (2) of section 31 (taking account of endorsement) for the words “section 357(1) of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 166(1) to (6) of the Criminal Procedure (Scotland) Act 1995”.
- (5) In subsection (6) of section 32 (extracts of licensing records) for the words “section 357(1) of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 166(1) to (6) of the Criminal Procedure (Scotland) Act 1995”.
- (6) After section 33 of the Road Traffic Offenders Act 1988 (fine and imprisonment), there shall be inserted the following section—

“33A Forfeiture of vehicles: Scotland

- (1) Where a person commits an offence to which this subsection applies by—
- (a) driving, attempting to drive, or being in charge of a vehicle; or
 - (b) failing to comply with a requirement made under section 7 of the Road Traffic Act 1988 (failure to provide specimen for analysis or laboratory test) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or
 - (c) failing, as the driver of a vehicle, to comply with subsections (2) and (3) of section 170 of the Road Traffic Act 1988 (duty to stop and give information or report accident),

the court may, on an application under this subsection, make an order forfeiting the vehicle concerned; and any vehicle forfeited under this subsection shall be disposed of as the court may direct.

Status: This is the original version (as it was originally enacted).

- (2) Subsection (1) above applies—
 - (a) to an offence under the Road Traffic Act 1988 which is punishable with imprisonment; and
 - (b) to an offence of culpable homicide.
 - (3) An application under subsection (1) above shall be at the instance of the prosecutor made when he moves for sentence (or, if the person has been remitted for sentence under section 195 of the Criminal Procedure (Scotland) Act 1995) made before sentence is pronounced.
 - (4) Where—
 - (a) the court is satisfied, on an application under this subsection by the prosecutor—
 - (i) that proceedings have been, or are likely to be, instituted against a person in Scotland for an offence to which subsection (1) above applies allegedly committed in the manner specified in paragraph (a), (b) or (c) of that subsection; and
 - (ii) that there is reasonable cause to believe that a vehicle specified in the application is to be found in a place or in premises so specified; and
 - (b) it appears to the court that there are reasonable grounds for thinking that in the event of the person being convicted of the offence an order under subsection (1) above might be made in relation to the vehicle, the court may grant a warrant authorising a person named therein to enter and search the place or premises and seize the vehicle.
 - (5) Where the court has made an order under subsection (1) above for the forfeiture of a vehicle, the court or any justice may, if satisfied on evidence on oath—
 - (a) that there is reasonable cause to believe that the vehicle is to be found in any place or premises; and
 - (b) that admission to the place or premises has been refused or that a refusal of such admission is apprehended,issue a warrant of search which may be executed according to law.
 - (6) In relation to summary proceedings, the reference in subsection (5) above to a justice includes a reference to the sheriff and to a magistrate.
 - (7) Part II of the Proceeds of Crime (Scotland) Act 1995 shall not apply in respect of a vehicle in relation to which this section applies.
 - (8) This section extends to Scotland only.”
- (7) In subsection (3) of section 46 (combination of disqualification and endorsement with probation etc)—
 - (a) in paragraph (b) for the words from “section 182” to the end there shall be substituted the words “section 228 (probation) or 246(2) or (3) (absolute discharge) of the Criminal Procedure (Scotland) Act 1995”; and
 - (b) for the words from “section 191” to the end of the subsection there shall be substituted the words “section 247 of that Act shall not apply”.
- (8) In section 60—

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

- (a) in subsection (4) for the words “section 315 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 140 of the Criminal Procedure (Scotland) Act 1995”;
 - (b) in subsection (5) for the words “Part II” there shall be substituted the words “Part IX”; and
 - (c) in subsection (6)—
 - (i) in paragraph (b) for the words “section 312” where they first occur there shall be substituted the words “section 140(4)”;
 - (ii) in that paragraph for the words “paragraphs (a) to (z) of section 312 of” there shall be substituted the words “section 255 of and Schedule 3 to”; and
 - (iii) paragraph (c) shall cease to have effect.
- (9) In subsection (7) of section 64 (commencement of proceedings against owner of vehicle) for the words “section 331(1) of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 136(1) of the Criminal Procedure (Scotland) Act 1995”.
- (10) In subsection (1) of section 89 (interpretation), in the definition of “court of summary jurisdiction” for the words “section 462(1) of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 307(1) of the Criminal Procedure (Scotland) Act 1995”.