

SCHEDULES

SCHEDULE 1

Section 62(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Public Records Act 1958 (c. 51)

- 1 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part II of the Table at the end of paragraph 3, at the appropriate place insert—
- “Scottish Criminal Cases Review Commission.”.

The Police (Scotland) Act 1967 (c. 77)

- 2 (1) The Police (Scotland) Act 1967 shall be amended in accordance with this paragraph.
- (2) Section 6(2) (application of certain provisions to appointments of ranks below assistant chief constable) shall cease to have effect.
- (3) In section 17 (general functions and duties of constables)—
- (a) in subsection (1), for the words “section 321(1) of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 135(3) and (4) of the Criminal Procedure (Scotland) Act 1995”; and
- (b) in subsection (7)(a) after the word “agreements” there shall be inserted the words “or of section 98 of the Police Act 1996 (cross-border aid of one police force by another)”.
- (4) In section 19(3) (amalgamation schemes) for the words from “reimbursed” to the end there shall be substituted the words “provided for by a grant made to the board under section 32 of this Act”.
- (5) In section 41(1)(b)(ii) (penalty for assaults on constables) for the words “section 289B of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 225(8) of the Criminal Procedure (Scotland) Act 1995”.
- (6) In section 46(1)(b) (rewards) after the word “agreements” there shall be inserted the words “or of section 98 of the Police Act 1996 (cross-border aid of one police force by another)”.

The Firearms Act 1968 (c. 27)

- 3 In section 51 of the Firearms Act 1968 (penalties for offences), after subsection (2) there shall be inserted the following subsection—
- “(2A) Nothing in subsection (2) above or Schedule 6 to this Act shall prejudice the operation of section 205A of the Criminal Procedure (Scotland) Act 1995 (imprisonment for life on further conviction of certain offences).”.

Status: This is the original version (as it was originally enacted).

The Superannuation Act 1972 (c. 11)

- 4 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply), at the end of the list of “Royal Commissions and other Commissions” insert—
- “Scottish Criminal Cases Review Commission.”.

The House of Commons Disqualification Act 1975 (c. 24)

- 5 In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified), at the appropriate place insert—
- “The Scottish Criminal Cases Review Commission.”.

The Sexual Offences (Scotland) Act 1976 (c. 67)

- 6 (1) The Sexual Offences (Scotland) Act 1976 shall cease to have effect.
- (2) This paragraph shall be deemed to have come into force on 1st April 1996 and the Sexual Offences (Scotland) Act 1976 shall for the purposes of the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 be regarded as a repealed enactment within the meaning of that Act.

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)

- 7 In Part I of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (persons ineligible for jury service), in Group B, after paragraph (w) insert—
- “(wa) members and employees of the Scottish Criminal Cases Review Commission;”.

The Criminal Justice (Scotland) Act 1980 (c. 62)

- 8 In section 3D(1)(b) of the Criminal Justice (Scotland) Act 1980 (interpretation of sections 3A to 3C), for the words “section 3 of this Act” there shall be substituted the words “section 15(6) of the Criminal Procedure (Scotland) Act 1995”.

The Mental Health (Scotland) Act 1984 (c. 36.)

- 9 (1) The Mental Health (Scotland) Act 1984 shall be amended in accordance with this paragraph.
- (2) In section 60 (effect of hospital orders)—
- (a) in subsection (1)(a)—
- (i) after the word “officer” there shall be inserted the words “, an officer on the staff of the hospital specified in the order”; and
- (ii) for the words “28” there shall be substituted the word “7”;
- (b) in subsection (4), for the words “28” there shall be substituted the word “7”.
- (3) In section 62 (restriction orders)—
- (a) after subsection (1) there shall be inserted the following subsection—

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

- “(1A) Where the managers of a hospital specified in a restriction order propose to admit the patient to a hospital unit in that hospital, they shall, if that unit was not so specified, notify the Secretary of State and the Mental Welfare Commission of the patient’s proposed admission to and detention in that unit; and the patient shall not be so admitted unless the Secretary of State has consented to the proposed admission.”; and
- (b) in subsection (3), for the words “section 178(3) and 379(3) of the said Act of 1975” there shall be substituted the words “section 59(3) of the said Act of 1995”.
- (4) In section 71 (removal to hospital of persons serving sentences of imprisonment and other persons), in subsection (4) at the beginning there shall be inserted the following words “Subject to section 71A of this Act,”.
- (5) After section 71 there shall be inserted the following section—

“71A Further provision as to persons removed to hospital under section 71

- (1) Where the Secretary of State is satisfied, in relation to a person in respect of whom he has made a transfer direction under section 71(1) of this Act, that—
- (a) either—
- (i) the person is not suffering from mental disorder of a nature or degree which makes it appropriate for him to be liable to be detained in a hospital for medical treatment; or
- (ii) it is not necessary for the health or safety of the person or for the protection of other persons that he should receive such treatment; and
- (b) it is not appropriate for the person to remain liable to be recalled to hospital for further treatment,
- he shall by warrant direct that the person be remitted to any prison or other institution or place in which he might have been detained had he not been removed to hospital and that he be dealt with there as if he had not been so removed.
- (2) Where the Secretary of State is satisfied as to the matters mentioned in subsection (1)(a) above, but not as to the matters mentioned in subsection (1) (b) above, he may either—
- (a) by warrant give such direction as is mentioned in subsection (1) above; or
- (b) decide that the person shall continue to be detained in hospital.
- (3) If a direction is given under subsection (1) or (2)(a) above, then on the person’s arrival in the prison or other institution or place to which he is remitted by virtue of that subsection the transfer direction shall cease to have effect.”.
- (6) In section 72(2) (restriction directions) for the words “section 178 or 379 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 59 of the Criminal Procedure (Scotland) Act 1995”.

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- (7) In section 74 (further provision as to transfer directions and restriction orders) in subsection (6), at the end there shall be added the words “or under Chapter I of Part III of the Crime and Punishment (Scotland) Act 1997”.
- (8) In section 77 (transfers to England and Wales), after subsection (5) there shall be inserted the following subsection—
- “(5A) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a hospital direction made by a court in Scotland, he shall be treated as if any sentence of imprisonment passed at the time at which the hospital direction was made had been imposed by a court in England and Wales.”.
- (9) In section 80 (transfers to Northern Ireland), after subsection (6), there shall be inserted the following subsection—
- “(6A) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a hospital direction made by a court in Scotland, he shall be treated as if any sentence of imprisonment passed at the time at which the hospital direction was made had been imposed by a court in Northern Ireland.”.
- (10) In section 82(2) (removal of certain patients from the Channel Islands), for the words “section 174 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 57(2)(a) and (b) of the Criminal Procedure (Scotland) Act 1995”.
- (11) In section 96 (application of provisions relating to consent to treatment), in paragraph (b) for the words “section 177 or 378 of the Criminal Procedure (Scotland) Act 1975” there shall be substituted the words “section 58(9) of the Criminal Procedure (Scotland) Act 1995”.
- (12) In section 106(4) (protection of mentally handicapped patients), for the words “Section 18 of the Sexual Offences (Scotland) Act 1976” there shall be substituted the words “Section 16 of the Criminal Law (Consolidation)(Scotland) Act 1995”.
- (13) In section 107(3) (further protection of patients), for the words “section 80(6) of the Criminal Justice (Scotland) Act 1980” there shall be substituted the words “section 13(4) of the Criminal Law (Consolidation) (Scotland) Act 1995”.
- (14) In section 121A (warrants for arrest of escaped patients)—
- (a) in subsection (1), for the words “section 30 or 108 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Articles 29, 45(6) and 132 of the Mental Health (Northern Ireland) Order 1986”;
 - (b) in subsection (3), for the words “section 107 of the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “Article 131 of the Mental Health (Northern Ireland) Order 1986”; and
 - (c) in subsection (4)—
 - (i) in the definition of “convicted mental patient”, for the words “the Mental Health Act (Northern Ireland) 1961” there shall be substituted the words “the Mental Health (Northern Ireland) Order 1986”; and
 - (ii) in the definition of “place of safety”, for the words “the said Act of 1961” there shall be substituted the words “the said Order of 1986”.

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(15) In section 125(1), after the definition of “hospital order” there shall be inserted the following definition—

““hospital unit” means any part of a hospital which is treated as a separate unit;”.

(16) In Part II of Schedule 2 (application of provisions of Part V to restricted patients), for paragraph 6 there shall be substituted the following paragraph—

“6 In section 29—

(a) for subsection (1) there shall be substituted—

“(1) A patient who is for the time being detained in a hospital or a hospital unit specified in a restriction order or a hospital direction or notified to the Secretary of State under section 62(1A) or 62A(2) of this Act may, with the consent of the Secretary of State, be transferred by the managers of the hospital—

(a) to another hospital, with the consent of the managers of that hospital; or

(b) to another hospital unit—

(i) in the hospital managed by them; or

(ii) in another hospital with the consent of the managers of that hospital.”;

(b) in subsection (2)—

(i) after the word “hospital” there shall be inserted the words “within which or”; and

(ii) the words after “transferred” shall be omitted; and

(c) in subsection (3) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction by virtue of which he was liable under Part VI of this Act to be detained before being transferred were an order or direction for his admission or removal to the hospital or hospital unit to which he is transferred.”.

The Repatriation of Prisoners Act 1984 (c. 47)

10 (1) The Repatriation of Prisoners Act 1984 shall be amended in accordance with this paragraph.

(2) In section 2(4)(b) (transfer of prisoners out of the United Kingdom)—

(a) in sub-paragraph (ii), for the words “1(2), (3) or (4), 2(4) or 7(1) or (2)” there shall be substituted the words “1(4) or 2(4)”; and

(b) after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“(iia) released subject to a supervised release order made under section 209 of the Criminal Procedure (Scotland) Act 1995;”.

(3) In section 3(9) (transfer of prisoners into the United Kingdom)—

(a) the words “or section 10”, in the second place where they occur, shall cease to have effect; and

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- (b) after the word “sentence”, in the second place where it occurs, there shall be inserted the words “or by virtue of section 10 as the designated part of his sentence”.

The Foster Children (Scotland) Act 1984 (c. 56)

- 11 In section 13 of the Foster Children (Scotland) Act, for the words “section 47 of the Children and Young Persons (Scotland) Act 1937” to the end there shall be substituted the words “section 55 of the Children (Scotland) Act 1995 (child assessment orders) as giving the local authority reasonable cause for the suspicion mentioned in subsection (1)(a) of that section”.

The Legal Aid (Scotland) Act 1986 (c. 47)

- 12 (1) The Legal Aid (Scotland) Act 1986 shall be amended in accordance with this paragraph.
- (2) In section 4 (Scottish Legal Aid Fund)—
- (a) in subsection (2)—
- (i) in paragraph (a), for the words “by him” there shall be substituted the words “or in respect of payments made in accordance with regulations made under section 33(3A) of this Act”;
- (ii) after paragraph (a) there shall be inserted the following paragraphs—
- “(aa) any expenses incurred by the Board in connection with the provision of criminal legal assistance by solicitors employed by it by virtue of section 28A of this Act;
- (ab) any sums payable by the Board under contracts made by virtue of section 33A of this Act;”;
- (b) in subsection (3), after paragraph (a) there shall be inserted the following paragraphs—
- “(aa) any contribution payable to the Board by any person in pursuance of section 11 of this Act;
- (ab) any award of expenses made by a criminal court to a person to whom criminal legal assistance has been provided by a solicitor employed by the Board by virtue of section 28A of this Act;”.
- (3) In section 11 (clients' contributions)—
- (a) in subsection (1), after the words “subsection (2)” there shall be inserted the words “or (3)”; and
- (b) after subsection (2) there shall be inserted the following subsections—
- “(3) Where a client to whom paragraphs (a) and (b) of subsection (2) above apply receives criminal legal assistance from a solicitor employed by the Board by virtue of section 28A of this Act, he shall pay to the Board such contribution in respect of that assistance as the Board may, subject to subsection (4) below, determine.

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- (4) The amount determined by the Board under subsection (3) above shall not exceed the amount which could have been charged in respect of the assistance in question by a solicitor.”.
- (4) In section 12 (payment of fees or outlays otherwise than through clients' contributions)—
- (a) at the end of subsection (2) there shall be inserted the words—
- “; but does not apply to the salary payable to a solicitor employed by the Board by virtue of section 28A of this Act.”; and
- (b) for the word “contribution”, where it appears in subsection (3)(a), there shall be substituted the word “amount”.
- (5) In section 21 (scope and nature of criminal legal aid), in subsection (1)(aa), for the word “discretionary” there shall be substituted the word “designated”.
- (6) In section 22 (automatic availability of legal aid), at the end of subsection (1) there shall be inserted the words—
- “and, in relation to paragraph (dc) above, “accused person” includes a person authorised to institute or continue an appeal under section 303A(4) of the Criminal Procedure (Scotland) Act 1995 (transfer of rights of appeal of deceased person).”.
- (7) After section 25 (legal aid in appeals) there shall be inserted the following section—

“25AA Legal aid in respect of appeals under section 303A of the 1995 Act

- (1) Subject to the provisions of this section, section 25 of this Act applies to any appeal, within the meaning of section 303A of the Criminal Procedure (Scotland) Act 1995 (transfer of rights of appeal of deceased person), instituted or continued by a person (an “authorised person”) authorised under subsection (4) of the said section 303A.
- (2) Where an authorised person is continuing an appeal which has been instituted by the deceased person, and criminal legal aid, within the meaning of section 25, has been awarded to the deceased person in connection with any proceedings, such legal aid shall continue to be made available to the authorised person in respect of those proceedings.
- (3) Where—
- (a) the deceased person had applied for criminal legal aid within the meaning of section 25, but the application had not been determined prior to his death; or
- (b) the deceased person had not applied for such legal aid,
- the authorised person shall be regarded as the applicant and, in a case to which paragraph (b) applies, may apply for such legal aid.
- (4) Notwithstanding subsection (3) above—
- (a) in section 25(2)(a) of this Act, where the authorised person is the executor of the deceased, any reference to—
- (i) the financial circumstances of the applicant shall be construed as a reference to the value of the deceased person’s estate; and

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- (ii) the applicant’s dependants shall be construed as a reference to the beneficiaries of the deceased’s estate; and
 - (b) any reference in section 25(2)(c) or (2A) of this Act to whether it is in the interests of justice that the applicant should receive legal aid shall be construed as a reference to whether it would have been in the interests of justice that the deceased should have received legal aid.”.
- (8) In section 31 (solicitors and counsel)—
- (a) in subsection (1), for the words from the beginning to “below” there shall be substituted the words “Subject to subsection (1A) below.”;
 - (b) after subsection (1) there shall be inserted the following subsection—
 - “(1A) Subsection (1) above is subject to—
 - (a) section 25A(3) of this Act;
 - (b) section 30(2) of this Act;
 - (c) regulations made under section 28A(6) of this Act;
 - (d) regulations made under section 33A(4) of this Act; and
 - (e) regulations made under subsection (9) below.”.
- (9) In section 33 (fees and outlays of counsel and solicitors), in subsection (1), at the beginning there shall be inserted the words “Subject to subsections (3A) and (3B) below.”.
- (10) In section 41 (interpretation)—
- (a) after the definition of “civil legal aid” there shall be inserted the following definition—
 - ““the code” means the code of practice in relation to criminal legal assistance for the time being in force under section 25B of this Act;”;
 - (b) after the definition of “criminal legal aid” there shall be inserted the following definitions—
 - ““criminal legal assistance” means criminal legal aid and advice and assistance in relation to criminal matters;
 - “document” includes information recorded in any form;
 - “firm” includes an incorporated practice, a sole solicitor and a law centre;”;
 - (c) after the definition of “incorporated practice” there shall be inserted the following definition—
 - ““law centre” means a body—
 - (a) established for the purpose of providing legal services to the public generally as well as to individual members of the public; and
 - (b) which does not distribute any profits made either to its members or otherwise, but reinvests any such profits for the purposes of the law centre;” and
 - (d) after the definition of “person” there shall be inserted the following definitions—

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““the Register” means the Register established and maintained under section 25A of this Act;

“registered firm” means a firm whose name appears on the Register;

“registered solicitor” means a solicitor whose name appears on the Register;

“sole solicitor” means a solicitor practising under his own name or as a single solicitor under a firm name; and

“solicitor connected with a firm” includes a sole solicitor and a solicitor who is a partner, director or employee of a firm, and cognate expressions shall be construed accordingly.”.

The Prisons (Scotland) Act 1989 (c. 45)

- 13 (1) The Prisons (Scotland) Act 1989 shall be amended in accordance with this paragraph.
- (2) In section 19(4) (application of enactments to young offenders institutions and remand centres), in paragraph (b)—
- (a) for the words “and 41B” there shall be substituted the words “, 41B, 41C”; and
 - (b) before the word “of” there shall be inserted the words “and 41D”.
- (3) In section 20A(3) (transfer of young offenders to prison or remand centre) for the words from “the 1975 Act” to the words “and this Act” there shall be substituted the words “this Act, the Prisoners and Criminal Proceedings (Scotland) Act 1993, the 1995 Act and the Crime and Punishment (Scotland) Act 1997”.
- (4) In section 27(5) (power of the Secretary of State to discharge prisoners not to affect duties of medical officer) (so far as that subsection continues to have effect by virtue of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (existing provisions which continue to have effect in relation to prisoners sentenced before 1st October 1993)) for the word “the”, where it occurs for the second time, there shall be substituted the word “any”.

The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)

- 14 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 shall be amended in accordance with this paragraph.
- (2) In section 1 (release of prisoners)—
- (a) subsections (1) to (3) and (8) shall cease to have effect; and
 - (b) in subsection (4), for the word “discretionary” there shall be substituted the word “designated”.
- (3) In section 2 (duty to release discretionary life prisoners)—
- (a) in subsection (2)—
 - (i) for the words “subsection (1)(b)” there shall be substituted the words “subsection (1)”; and
 - (ii) before the word “life”, in both places where it occurs, there shall be inserted the word “designated”;

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- (b) in subsection (3), for the words “subsection (1)(a)” there shall be substituted the word “subsection (1)”;
 - (c) for the word “relevant”, where it occurs in subsections (2), (8) and (9), there shall be substituted the word “designated”;
 - (d) for the word “discretionary” where it occurs in subsections (4), (6), (8) and (9) there shall be substituted the word “designated”; and
 - (e) in subsection (7), for paragraph (a) there shall be substituted the following paragraph—
 - “(a) where the prisoner is serving—
 - (i) a sentence of imprisonment for life; and
 - (ii) a sentence of imprisonment for a term of more than three months,
 before he has served five-sixths of the sentence mentioned in sub-paragraph (ii) above;”.
- (4) In section 3(2) (release on compassionate grounds), the words “any long-term prisoner or” shall cease to have effect.
- (5) Section 5 shall cease to have effect.
- (6) In section 6 (application of Act to young persons and children detained without limit of time), in subsection (1)—
- (a) paragraph (a) and the word “and” following that paragraph shall cease to have effect;
 - (b) in paragraph (b)(i) for the words “that Act” there shall be substituted the words “the 1995 Act”; and
 - (c) for the words “prisoners (whether short-term, long-term or life)” there shall be substituted the words “life prisoners”.
- (7) Sections 7 and 9 shall cease to have effect.
- (8) In section 10 (life prisoners transferred to Scotland)—
- (a) for subsection (1) there shall be substituted the following subsection—
 - “(1) In a case where a transferred life prisoner transferred from England and Wales (whether before or after the commencement of this enactment) is a life prisoner to whom section 28 of the Crime (Sentences) Act 1997 (duty to release certain life prisoners) applies, this Part of this Act except sections 1(4) and 2(9) shall apply as if—
 - (a) the prisoner were a designated life prisoner within the meaning of section 2 of this Act; and
 - (b) the designated part of his sentence within the meaning of that section were the relevant part specified in an order or direction made under the said section 28.”;
 - (b) in subsection (3)(a), for the word “discretionary” there shall be substituted the word “designated”;
 - (c) in subsection (3)(b), for the word “relevant” there shall be substituted the word “designated”;
 - (d) in subsection (5)(a), for the word “discretionary” there shall be substituted the word “designated”; and

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- (e) in subsection (5)(b), for the words “section 34 of the said Act of 1991” there shall be substituted the words “the said section 28 of the Crime (Sentences) Act 1997”.

(9) For section 11 (duration of licences) there shall be substituted the following section—

“11 Duration of licences

- (1) Where a life prisoner is released on licence under this Part of this Act, the licence shall (unless revoked) remain in force until his death.
 - (2) Without prejudice to any order under section 209 of the 1995 Act (supervised release orders), where a prisoner is released on licence under section 3(1) of this Act, the licence shall (unless revoked) remain in force until the date on which, but for such release, he would have been released by virtue of section 34 of the Crime and Punishment (Scotland) Act 1997 (early release).
 - (3) For the purposes of fixing the date mentioned in subsection (2) above, there shall be taken into account—
 - (a) any early release days actually awarded to the prisoner under section 34 of that Act prior to his release; and
 - (b) the maximum number of such days which he could have been awarded had he remained in prison during the period when he was released on licence.”.
- (10) In section 12(3) (insertion, variation and cancellation of conditions in licences)—
- (a) the words “a long-term or” shall cease to have effect; and
 - (b) for the word “discretionary” there shall be substituted the word “designated”.
- (11) In section 14 (supervised release orders)—
- (a) in subsection (2)—
 - (i) the words from the beginning to “209(1) of the 1995 Act” shall cease to have effect; and
 - (ii) after the words “prison in Scotland” there shall be inserted the words “under Schedule 1 to the Crime (Sentences) Act 1997 in an unrestricted transfer within the meaning of that Schedule”; and
 - (b) in subsection (4), the words “short-term” shall cease to have effect.
- (12) Section 16 shall cease to have effect.
- (13) In section 17(1) (revocation of licence)—
- (a) in paragraph (a), the words “long-term or”; and
 - (b) paragraph (b),
- shall cease to have effect.
- (14) In section 20 (the Parole Board for Scotland), in subsection (3), paragraphs (a) and (b) and the word “and” following those paragraphs shall cease to have effect.
- (15) Section 24 shall cease to have effect.
- (16) In section 27 (interpretation)
- (a) in subsection (1)—
 - (i) the definitions of “short-term prisoner” and “long-term prisoner” shall cease to have effect; and

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- (ii) in the definition of “supervised release order” the words “(as inserted by section 14 of this Act)” and the words from “but” to the end shall cease to have effect; and
- (b) subsections (2), (3), (5) and (6) shall cease to have effect.

(17) Schedule 1 shall cease to have effect.

(18) In Schedule 6 (transitional provisions and savings)—

- (a) for the word “relevant” in each place where it occurs in paragraph 6(2) and (3) and 6A(2), there shall be substituted the word “designated”; and
- (b) for the word “discretionary” in each place where it occurs in paragraphs 6, 6A(2) and 7, there shall be substituted the word “designated”.

The Criminal Justice and Public Order Act 1994 (c. 33)

15 In section 110 of the Criminal Justice and Public Order Act 1994 (modifications of the Prisons (Scotland) Act 1989 in its application to contracted out prisons)—

- (a) in subsection (3) for the words “and 41B(3) (testing prisoners for drugs)” there shall be substituted the words “, 41B(3) (testing prisoners for drugs) and 41C(3) (testing prisoners for alcohol)”;
- (b) in subsection (4) for the words “and 41B(1)(testing prisoners for drugs)” there shall be substituted the words “, 41B(1) (testing prisoners for drugs) and 41C(1) (testing prisoners for alcohol)”.

The Criminal Justice (Scotland) Act 1995 (c. 20)

16 Section 66 of the Criminal Justice (Scotland) Act 1995 shall cease to have effect.

The Children (Scotland) Act 1995 (c. 36)

17 In Schedule 4 to the Children (Scotland) Act 1995, paragraph 35(6) shall cease to have effect.

The Criminal Law (Consolidation)(Scotland) Act 1995 (c. 39)

18 (1) The Criminal Law (Consolidation) (Scotland) Act 1995 shall be amended in accordance with this paragraph.

(2) In section 5 (unlawful sexual intercourse with a girl under the age of 13 years)—

- (a) in subsection (1), at the beginning there shall be inserted the words “Subject to section 205A of the Criminal Procedure (Scotland) Act 1995 (imprisonment for life on further conviction of certain offences),”; and
- (b) in subsection (6) (definition of “like offence” for purposes of that section), for the words “section 10(1) of this Act” there shall be substituted the words “section 9(1) of this Act”.

(3) In section 7(3) (deemed rape where husband impersonated) after the word “with” there shall be inserted the word “her”.

(4) In section 19(3) (vehicles in relation to which certain offences relating to alcohol at sporting events may be committed), for the word “principle” there shall be substituted the word “principal”.

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- (5) In section 21 (police powers in relation to control of alcohol etc. at sporting events), in paragraph (e), after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

“; or

(iii) a controlled article or substance as defined in section 20(8) of this Act.”.

- (6) In section 23 (interpretation of Part II), after the definition of “keeper” there shall be inserted the following definition—

““motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;”.

- (7) In section 26(11) (interpretation of powers of Customs and Excise officers to detain persons in connection with drug smuggling) for the definition of superior officer there shall be substituted the following definition—

““superior officer” means an officer whose title is specified for the purposes of this section by the Treasury in an order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

- (8) In section 45(1) (aiding and abetting offences under section 44), for the word “principle” there shall be substituted the word “principal”.

The Criminal Procedure (Consequential Provisions)(Scotland) Act 1995 (c. 40)

- 19 (1) The Criminal Procedure (Consequential Provisions)(Scotland) Act 1995 shall be amended in accordance with this paragraph.
- (2) In Part II of Schedule 2 (increase in certain penalties), the entry relating to section 1 of the Protection of Animals (Scotland) Act 1912 shall cease to have effect.
- (3) In Schedule 4 (minor and consequential amendments)—
- (a) paragraph 6(4)(a) and (d) shall cease to have effect;
 - (b) paragraph 16 shall cease to have effect;
 - (c) paragraph 50(7)(b) shall cease to have effect; and
 - (d) paragraph 53(3) shall cease to have effect.

The Proceeds of Crime (Scotland) Act 1995 (c. 43)

- 20 In section 42(1) of the Proceeds of Crime (Scotland) Act 1995 (power to make Order in Council with respect to enforcement of orders in England and Wales), in paragraph (a) after the word “offence” there shall be inserted the words “, other than a drug trafficking offence,”.

The Criminal Procedure (Scotland) Act 1995 (c. 46.)

- 21 (1) The 1995 Act shall be amended as follows.
- (2) In section 15 (rights of persons arrested or detained), in subsection (6)(b), for the words “actual custody” there shall be substituted the word “care”.

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- (3) In section 44 (detention of children in summary proceedings)—
- (a) in subsection (4), the words “, subject to subsection (6) below,”;
 - (b) subsections (6) to (9); and
 - (c) in subsection (10), the words “or (8)”,
- shall cease to have effect.
- (4) In section 46 (presumption and determination of age of child)—
- (a) in subsection (1), after the word “offence” there shall be inserted the words “, whose age is not specified in the indictment or complaint in relation to that offence,”;
 - (b) in subsection (3) at the beginning there shall be inserted the words “Without prejudice to section 255A of this Act,”.
- (5) In section 53 (power to make interim hospital order)—
- (a) in subsection (1), after the word “way” there shall be inserted the words “, including imposing a sentence of imprisonment and making a hospital direction,”;
 - (b) in subsection (3), for the words “28” there shall be substituted the word “7”;
 - (c) in subsection (4), after the word “not” there shall be inserted the words “at that time”;
 - (d) in subsection (5), for the words “28” there shall be substituted the word “7”;
 - (e) after subsection (5), there shall be inserted the following subsection—
 - (5A) Subsections (1) and (4) of section 60 of the Mental Health (Scotland) Act 1984 shall apply to an interim hospital order as they apply to a hospital order.”; and
 - (f) in subsection (6), after the word “way” there shall be inserted the words “, including imposing a sentence of imprisonment and making a hospital direction”.
- (6) In section 58 (hospital orders)—
- (a) in subsection (4), for the words “28” there shall be substituted the word “7”;
 - and
 - (b) in subsection (9), for the words “28” there shall be substituted the word “7”.
- (7) In section 62(6)(b) (disposal in appeals by accused in cases involving insanity), for the words “or order” there shall be substituted the words “, order or other disposal”.
- (8) In section 63 (appeals by prosecutor in cases involving insanity)—
- (a) in subsection (1), paragraph (d) shall cease to have effect;
 - (b) in subsection (2)(b)(ii), the words “or (d)” shall cease to have effect; and
 - (c) in subsection (5)(b)—
 - (i) for the words “or order”, in the first place where they occur, there shall be substituted the words “order or disposal”; and
 - (ii) for the words “or order”, in the second place where they occur, there shall be substituted the words “or acquittal”.
- (9) In section 65 (prevention of delay), after subsection (3) there shall be inserted the following subsection—

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- “(3A) An application under subsection (3) shall not be made at any time when an appeal made with leave under section 74(1) of this Act has not been disposed of by the High Court.”.
- (10) In section 74(4) (disposal of appeals in connection with preliminary diets)—
- (a) the word “and” after paragraph (a) shall cease to have effect; and
 - (b) after paragraph (b) there shall be inserted the following words “; and
 - (c) may on cause shown extend the period mentioned in section 65(1) of this Act.”.
- (11) In section 81(6) (list of jurors where trial does not take place)—
- (a) the word “, signed” shall cease to have effect; and
 - (b) for the words “85(1) and (2)” there shall be substituted the words “85(2)”.
- (12) In section 83 (transfer of sheriff court solemn proceedings)—
- (a) in subsection (1), for the words “transfer the case to a sheriff court” there shall be substituted the words “adjourn the trial and transfer it to a sitting of a sheriff court, appointed as mentioned in section 66(1) of this Act.”;
 - (b) in subsection (2)—
 - (i) before the word “make” there shall be inserted the words “adjourn the trial and”; and
 - (ii) for the word “case” there shall be substituted the word “trial as mentioned in subsection (1) above”; and
 - (c) after subsection (2), there shall be inserted the following subsection—

“(3) Where a warrant to cite any person to attend a sitting of the sheriff court has been issued by the sheriff clerk under section 66(1) of this Act and the trial has been adjourned and transferred by an order under subsection (2) above, the warrant shall have effect as if the trial diet had originally been fixed for the court, and the date of the sitting of that court, to which the trial is so transferred.”.
- (13) In section 103 (appeal sittings)—
- (a) in subsection (3), for the words “subsection (1)” there shall be substituted the words “subsection (2)”;
 - (b) in subsection (4), for the words “and (2)” there shall be substituted the words “to (3)”;
 - (c) in subsection (7), after the words “subsection (5)” there shall be inserted the words “and (6)”.
- (14) In subsection (1)(b) of section 104 (power of High Court in appeals) the word “additional” shall cease to have effect.
- (15) In section 107(4) (application where leave to appeal refused), for the words “subsection (7)” there shall be substituted the words “subsection (10)”.
- (16) In section 113(2)(c) (recipients of copy of judge’s report) for the words “section 124(3) of this Act, to the Secretary of State” there shall be substituted the words “Part XA of this Act, to the Commission”.
- (17) In section 118 (disposal of appeals)—
- (a) in subsection (4)(b), the word “additional” shall cease to have effect; and
 - (b) after subsection (8) there shall be inserted the following subsection—

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- “(9) The High Court may give its reasons for the disposal of any appeal in writing without giving those reasons orally.”.
- (18) In section 124 (finality of proceedings and Secretary of State’s reference)—
- (a) in subsection (1), after “this Part” there shall be inserted the words “or Part XA”;
 - (b) in subsection (2), for the words “subsection (3) below” there shall be substituted the words “Part XA of this Act”; and
 - (c) subsections (3) to (5) shall cease to have effect.
- (19) In section 141 (manner of citation)—
- (a) in subsection (3)—
 - (i) the words “signed by the prosecutor and” shall cease to have effect;
 - (ii) in paragraph (a), after the word “accused,” there shall be inserted the words “signed by the prosecutor and”; and
 - (iii) in paragraph (b), after the word “sent” there shall be inserted the words “by or on behalf of the prosecutor”; and
 - (b) , after subsection (5) there shall be inserted the following subsection—

“(5A) The citation of a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall be effective if it is sent by the accused’s solicitor by ordinary post to the dwelling house or place of business of the witness or, if he has no known dwelling house or place of business, to any other place in which he may be resident at the time.”.
- (20) In section 179(2) (stated case: adjustment and signature) the word “additional” shall cease to have effect.
- (21) In subsection (5)(b) of section 182 (stated case: hearing of appeal) the word “additional” shall cease to have effect.
- (22) In subsection (1)(b) of section 189 (disposal of appeal against sentence) the word “additional” shall cease to have effect.
- (23) In section 199 (power to mitigate penalties), in subsection (3) after paragraph (b) there shall be inserted the following paragraph—
- “; or
- (c) to any proceedings in which the court on conviction is under a duty to impose a sentence under section 205A(2) or 205B(2) of this Act.”.
- (24) In section 202(1) (deferral of sentence) at the beginning there shall be inserted the words “Subject to section 205A of this Act,”.
- (25) In section 207(2) (detention of young offenders)—
- (a) for the words “section 205(2) and (3)” there shall be substituted the words “sections 205(2) and (3), 205A(2)(b) and 205B(2)(b)”; and
 - (b) for the word “exceed” there shall be substituted the words “be less than the minimum nor more than”.
- (26) In section 209 (supervised release orders), after subsection (7) there shall be inserted the following subsection—

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- “(7A) Where a person—
- (a) is serving a sentence of imprisonment and on his release from that sentence will be subject to a supervised release order; and
 - (b) is sentenced to a further term of imprisonment, whether that term is to run consecutively or concurrently with the sentence mentioned in paragraph (a) above,
- the relevant period for any supervised release order made in relation to him shall begin on the date when he is released from those terms of imprisonment; and where there is more than one such order he shall on his release be subject to whichever of them is for the longer or, as the case may be, the longest period.”.
- (27) In section 228(1) (probation orders), after the word “below” there shall be inserted the words “and without prejudice to section 245D of this Act”.
- (28) In section 232 (failure to comply with requirements of probation order), after subsection (3) there shall be inserted the following subsection—
- “(3A) Where the court intends to sentence an offender under subsection (2)(b) above, and the offender is by virtue of section 245D of this Act subject to a restriction of liberty order, it shall, before sentencing the offender under that paragraph, revoke the restriction of liberty order.”.
- (29) In section 233 (commission of further offence while subject to probation order), after subsection (5) there shall be added the following subsection—
- “(6) This section shall not apply where the offence in respect of which the order was made and the offence committed during the probation period are qualifying offences within the meaning of section 205A of this Act.”.
- (30) In section 234A (non-harassment orders), subsection (5) shall cease to have effect.
- (31) In section 246(1) (admonition), at the beginning, there shall be inserted the words “Subject to sections 205A and 205B of this Act,”.
- (32) In section 280 (routine evidence), in subsection (6)(b), for the words “the accused” there shall be substituted the word “he”.
- (33) In section 298 (trial judge’s report)—
- (a) in subsection (1)(a), after the words “108” there shall be inserted the words “, 108A”; and
 - (b) in subsection (2), for the words “section 124(3) of this Act, the Secretary of State” there shall be substituted the words “Part XA of this Act, the Commission”.
- (34) In section 307(1) (interpretation)—
- (a) after the definition of “Clerk of Justiciary” insert—

““the Commission” has the meaning given by section 194A(1) of this Act;”; and
 - (b) after paragraph (a) of the definition of “hospital”, there shall be inserted the following paragraph—

“(aa) any hospital managed by a National Health Service Trust established under section 12A of that Act;”.

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- (35) In Schedule 4 (supervision and treatment orders)—
- (a) in paragraph 3(3), after the word “officer;” there shall be inserted the following sub-paragraph—
 - “(bb) the medical practitioner by whom or under whose supervision the supervised person is to be treated under the order;”;
 - (b) in paragraph 10(1), after the word “officer” there shall be inserted the words “and to the medical practitioner by whom or under whose supervision the supervised person was treated under the supervision and treatment order”;
 - (c) in paragraph 11(1)(a), after the word “officer” there shall be inserted the words “and to the medical practitioner by whom or under whose supervision the supervised person has been treated under the supervision and treatment order”.

SCHEDULE 2

Section 33(3).

TRANSITIONAL PROVISIONS WITH RESPECT TO EARLY RELEASE

- 1 (1) In this Schedule—
- “existing provisions” means the provisions relating to the detention or release of persons which are in force immediately prior to the date upon which Chapter 1 of Part III of this Act (hereinafter referred to as “the Chapter”) comes into force, and where those provisions are amended or repealed by this Act or any other enactment, that amendment or repeal shall apply for the purposes of those provisions and this Schedule only if expressly stated to do so;
 - “new provisions” means the Chapter;
 - “new offence” means an offence (including default in paying a fine and contempt of court) committed after the new provisions come into force;
 - “old offence” means an offence (including default in paying a fine and contempt of court) committed before the new provisions come into force;
 - “new sentence” means a sentence passed in respect of a new offence;
 - “old sentence” means a sentence passed in respect of an old offence; and
 - “sentence” includes a period of imprisonment imposed for default in paying a fine or for contempt of court.
- (2) In subparagraph (1) above, the definitions of new offence, new sentence, old offence and old sentence shall have effect notwithstanding that conviction and sentence may occur after the Chapter comes into force.
- (3) In relation to default in paying a fine, the date on which sentence is passed shall be taken to be, in relation to imprisonment imposed—
- (a) under section 214(2) or 216 of the 1995 Act, the date on which the court imposes imprisonment; and
 - (b) under section 214(4) of the 1995 Act, the date on which the defaulter is committed to prison.
- 2 Where, by virtue of the provisions of this Schedule, a prisoner is treated as serving—

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- (a) a new sentence, the new provisions will apply in respect of him;
 - (b) an old sentence, the existing provisions will apply in respect of him,in both cases subject to any specific provision made in this Schedule.
- 3 For the purposes of this Schedule, where additional days have been awarded to, or days of remission have been forfeited by, a prisoner serving an old sentence, the period which he is required to serve in respect of that sentence shall be computed without regard to those days, and he shall serve those days—
 - (a) after that period has come to an end; and
 - (b) before starting to serve any new sentence of imprisonment which is to run consecutively to that old sentence.
- 4 Where any combination of old and new sentences is to run, either consecutively or concurrently, in relation to a prisoner, any supervised release order imposed under any of those sentences shall begin on the date when he is released; and where there is more than one such order he shall be subject to whichever of them is the longer or, as the case may be, the longest.
- 5 Where a single sentence is passed in respect of a number of offences committed on different days, for the purposes of this Schedule the sentence shall be deemed to have been passed in respect of the offence or offences committed on the latest of those days.
- 6 Subject to paragraph 8 below, where a new sentence is to run consecutively to an old sentence, the new sentence shall begin—
 - (a) where the old sentence was or is for less than four years, at the expiry of one half of that sentence; and
 - (b) subject to paragraph 7 below, where the old sentence was or is for four years or more, at the expiry of two thirds of that sentence
- 7 Where, in a case to which paragraph 6(b) above applies, the Parole Board have, prior to the passing of the new sentence, recommended that the prisoner be released on licence on a date—
 - (a) earlier than the expiry of two thirds of that sentence; and
 - (b) later than the date on which the new sentence is passed,the new sentence shall begin on such date as the Secretary of State may, after considering any further recommendation of the Parole Board, determine, being a date not later than the expiry of two thirds of the sentence.
- 8 Where a new sentence is to run consecutively to an old sentence and the prisoner concerned is in prison—
 - (a) because he has been recalled to prison by the Secretary of State, the new sentence shall begin, where he is recalled—
 - (i) after the expiry of one half and before the expiry of two thirds of the old sentence, at the expiry of two thirds of that sentence;
 - (ii) after the expiry of two thirds of the old sentence, at the expiry of the old sentence;
 - (iii) in either of the cases mentioned in sub-paragraphs (i) and (ii) above, and the Parole Board has directed his release under section 17(4) of the 1993 Act or has recommended his release under section 28(5) of the 1989 Act, on the date on which he would, by virtue of that direction or recommendation and but for the new sentence, have been released;

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- (b) as a result of an order made under section 16 of the 1993 Act (commission of offence by released prisoner), the new sentence shall begin on the date on which the return period determined by that order expires;
 - (c) both because he has been recalled by the Secretary of State and returned as a result of an order made under section 16 of the 1993 Act, the new sentence shall begin on the expiry of whichever of the recall period and the order period ends later.

- 9 Where any combination of old and new sentences is to run consecutively in relation to a prisoner and—
 - (a) after the expiry of any supervised release order such as is mentioned in paragraph 4 above; or
 - (b) where he is not subject to any such supervised release order, on his release, there remains outstanding part of any licence period in respect of an old sentence, he shall, in accordance with the existing provisions, be subject to that licence for that part of that period.

- 10 Where any combination of old and new sentences is to run consecutively in relation to a prisoner and—
 - (a) the last of those sentences is a new sentence, he shall, in addition to any supervised release order or licence period, be subject to the new provisions in relation to that new sentence; and
 - (b) the last of those sentences is an old sentence, he shall, in addition to any supervised release order or licence period, be subject to the existing provisions in relation to that old sentence.

- 11 In calculating a licence period for the purposes of paragraphs 9 and 10 above any period less than three months shall be disregarded.

- 12 Where a prisoner serving an old sentence of four years or more—
 - (a) has been released on licence; and
 - (b) receives a new sentence,before the expiry of that old sentence, he shall begin to serve the new sentence immediately on its being passed or on such other date as the court may specify.

- 13 Where an old sentence is to run consecutively to a new sentence, the prisoner concerned shall begin to serve the old sentence on the date when he would otherwise have been released from the new sentence.

- 14 Where any combination of old and new sentences is to run concurrently, in relation to a prisoner, he shall be treated as if he is serving whichever of them will, as at the date on which the latest of them is passed, give rise to the later or, as the case may be, latest release date and, for the purposes of this paragraph, “release date” means—
 - (a) in the case of an old sentence—
 - (i) one half of a sentence of less than four years; and
 - (ii) two thirds of a sentence of four years or more; and
 - (b) in the case of a new sentence, the whole term.

- 15 If, by virtue of paragraph 14 above, the prisoner is to be treated as serving an old sentence, and—
 - (a) that sentence is either quashed or reduced to a period shorter than the concurrent new sentence on appeal; or

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- (b) a new sentence to which he is subject is increased on appeal to a period longer than the concurrent old sentence,
the prisoner concerned shall, as at the date when he begins to be treated as serving the new sentence, be deemed to have been awarded as many early release days as possible in relation to the period during which he was treated as serving the old sentence, (under deduction of any additional days which may have been awarded to him, or days of remission which may have been forfeited by him, during that period).
- 16 (1) This paragraph applies where a prisoner who is being held on remand in respect of both an old offence and a new offence is, in consequence of the same act or omission—
- (a) awarded additional days in respect of any prospective old sentence which may be imposed upon him; and
 - (b) is made subject to an order by which he forfeits early release days, in respect of any prospective new sentence which may be imposed upon him.
- (2) Where the prisoner receives—
- (a) only an old sentence, he is liable to the additional days mentioned in subparagraph (1)(a) above;
 - (b) only a new sentence, he is liable only to forfeit the early release days mentioned in subparagraph (1)(b) above.
- (3) Where the prisoner receives both an old and a new sentence which are to run—
- (a) consecutively, he is liable to the additional days, if the longer or, as the case may be, longest sentence is an old sentence, or to the forfeiture of the early release days, if the longer or, as the case may be, longest, sentence is a new sentence;
 - (b) concurrently, he is liable either to the additional days or, as the case may be, to the forfeiture of the early release days, depending on whether the sentence is, in accordance with paragraph 14 above, to be treated as an old or, as the case may be, a new sentence.

SCHEDULE 3

Section 62(2).

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1967 c. 77.	The Police (Scotland) Act 1967.	Section 6(2).
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 27(1)(b), the word “and” where it appears after subparagraph (iv).
1976 c. 67.	The Sexual Offences (Scotland) Act 1976.	The whole Act.
1984 c. 36.	The Mental Health (Scotland) Act 1984.	In section 65(2), the words after paragraph (b).

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 70(1), the words “(not being a private hospital)”.
1984 c. 47.	The Repatriation of Prisoners Act 1984.	In section 3(9), the words “or section 10” in the second place where they occur.
1989 c. 45.	The Prisons (Scotland) Act 1989.	In section 3(1), the words from “including” to the end.
		In section 39, subsection (7).
1993 c. 9.	The Prisoners and Criminal Proceedings (Scotland) Act 1993.	In section 1, subsections (1) to (3) and (8).
		In section 2(2), the word “and”.
		In section 3(2), the words “any long term prisoner or”.
		Section 5.
		In section 6(1), paragraph (a) and the word “and” following that paragraph.
		Section 7.
		Section 9.
		In section 12(3), the words “a long-term or”.
		In section 14, in subsection (2), the words from the beginning to “209(1) of the 1995 Act” and, in subsection (4), the words “short-term”.
		Section 16.
		In section 17(1), in paragraph (a), the words “long-term or” and paragraph (b).
		In section 20, in subsection (3), paragraphs (a) and (b) and the word “and” following those paragraphs.
		Section 24.
		In section 27, in subsection (1), the definitions of “short term prisoner” and “long-term prisoner” and in

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		the definition of “supervised release order” the words “(as inserted by section 14 of this Act)” and the words from “but” to the end, and subsections (2), (3), (5) and (6).
		Schedule 1.
1993 c. 24.	The Video Recordings Act 1993.	Section 5.
1995 c. 20.	The Criminal Justice (Scotland) Act 1995.	Section 66.
1995 c. 25.	The Environment Act 1995.	In Schedule 22, paragraph 35.
1995 c. 36.	The Children (Scotland) Act 1995.	In Schedule 4, paragraph 35(6).
1995 c. 40.	The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.	In Part II of Schedule 2, the entry relating to section 1(1) of the Protection of Animals (Scotland) Act 1912.
		In Schedule 4, paragraphs 6(4)(a) and (d), 16, 50(7)(b) and 53(3).
1995 c. 46.	The Criminal Procedure (Scotland) Act 1995.	In section 18, subsection (7).
		In section 19(4)(b), the words “, print or impression”.
		In section 44, in subsection (4), the words “, subject to subsection (6) below,” subsections (6) to (9) and in subsection (10), the words “or (8)”.
		In section 53, in subsection (1), the words “subsection (2) below and”, and subsection (2).
		In section 63, subsection (1) (d) and in subsection (2)(b) (ii) the words “or (d)”.
		In section 74(4), the word “and” after paragraph (a).
		In section 81(6), the word “, signed”.
		In section 85(1), the words from “but” to the end.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Section 101(5).
		In section 104(1)(b), the word “additional”.
		In section 118(4)(b), the word “additional”.
		In section 124, subsections (3) to (5).
		Section 140(3).
		In section 141(3), the words “signed by the prosecutor and”.
		Section 154.
		In section 179(2), the word “additional”.
		In section 182(5)(b), the word “additional”.
		In section 189(1)(b), the word “additional”.
		In section 204(2), the words from “and” to the end.
		In section 234A, subsection (5).
		In section 252(2), the word “and”, in the third place where it occurs.
