

Permanency of certain criminal justice measures from Coronavirus Recovery and Reform (Scotland) Act 2022 and modernising criminal justice procedures through digital processes

Consultation

Ministerial Foreword

One of the defining missions of our government is to create, invest and maintain sustainable public services, to ensure the people of Scotland can access modern, effective, and timely services when they need to. Central to achieving this mission is our commitment to modernise the justice sector through greater use of digital processes.

The COVID pandemic increased the pace of digital adoption and innovation in many spheres, and the justice system was no different. Throughout this period, a number of changes were made to operational practices and procedures, including the use of digital technologies to ensure the continued operation of a viable justice system. These technological solutions allowed us to meet the challenges of a pandemic whilst also providing the basis for how a more effective and efficient justice system could be delivered in the future.

As we become a digital nation, the nature of government, at a national and local level, will change. The people we serve expect services that are responsive and tailored to their needs and they expect to hold us to account for the quality and efficiency of these services. This requires us to ensure that the services we design and deliver, works for the people who use them.

This consultation provides an opportunity to continue the strides made during the pandemic by making permanent ways of working, which are already operational within the system, and look towards the future.

Throughout this process, we will continue to work collaboratively and innovatively with Scotland's justice agencies and listen to wide ranging views in order to better understand how the proposals set out in this consultation can deliver better outcomes and experiences for those who come into contact with processes of justice.

Your responses will help shape the future of the justice system by ensuring it reflects the needs of individuals who experience and use justice services, including victims, witnesses and the accused.

Your views are crucial to this process, and we look forward to hearing them.

Responding to this Consultation

We are inviting responses to this consultation by Monday 12 February 2024.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/justice/covidpermanency>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 12 February 2024.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

By email: covidpermanency.consultation@gov.scot

Or by post:

Justice Transformation Policy Unit

Scottish Government

St Andrew's House

Edinburgh

EH1 3DG

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at covidpermanency.consultation@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Introduction

Our [Vision for Justice](#), published in February 2022, and the associated [Three Year Delivery Plan](#), published in November 2023 sets out the Scottish Government's transformative vision to deliver a just, safe resilient country. Delivering the vision requires fundamental change to the operation of our justice services, ensuring that our processes and laws meet the needs of people now and in the future.

We are already making progress delivering our vision. The [Bail and Release from Custody \(Scotland\) Act 2023](#) includes changes to refocus how remand is used and improves support provided to people leaving prison, helping them to resettle in their communities and reduce their risk of reoffending. The underpinning principles of the Act are to reduce crime, reoffending and future victimisation. Alongside this, the [National Community Justice Strategy](#), published earlier this year sets out our four national aims for community justice. Currently before parliament, The [Victims, Witnesses and Justice Reform \(Scotland\) Bill](#), also contains an ambitious package of reforms to modernise processes and improve the experiences of victims and witnesses, ensuring that victims of crime are treated with compassion and that their voices are heard.

This consultation is therefore a key part of a far-reaching programme of work and takes forward our [Programme for Government 2022-23](#) commitment to modernise justice processes through greater use of digital processes. It also delivers on our priorities for justice as outlined in [Equality, opportunity, community: New leadership - A fresh start](#).

The primary proposals in this consultation are to make permanent those of the temporary justice measures in the [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#), which can deliver significant longer term benefits and provide a basis for the future resilience, effectiveness and efficiency of the criminal justice sector. We are also seeking views on proposals which support the modernisation of our justice processes and procedures. The Scottish Government propose to do this through legislation in this parliamentary term.

The particular provisions from the Coronavirus (Recovery and Reform) (Scotland) Act 2022 which are being consulted on are:

- Allowing for the electronic signing and sending of documents in criminal cases.
- Enabling virtual attendance at a criminal court.
- A national jurisdiction for callings from custody, so that custody cases can be heard in any court in Scotland.
- An increase in the maximum level of fiscal fine, to £500, along with adjustments to the scale of fines.

Additional proposals included as part of this consultation are:

- Legislating to maximise the use of remote and digital ways of working including the use of digital images rather than production of physical evidence in court.
- Alternative ways to prove copy documents to provide more flexibility in the law, taking account of digital innovations such as Digital Evidence Sharing Capability.

Background

Throughout the pandemic, justice agencies were required to respond at rapid pace and adapt their operational practices. These changes included the use of remote jury trials, fully virtual summary trials and virtual custody courts along with electronic citations. These technological solutions enabled the operation of a viable justice system which met the challenges of a pandemic whilst also providing the basis for how a more effective and efficient justice system could be delivered in the future.

Many of these measures were made possible due to the temporary provisions provided in the [Coronavirus \(Scotland\) Act 2020](#), [Coronavirus \(Scotland\)\(No.2\) Act 2020](#) and the [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#). This legislation underpinned changes to court processes and procedures during the pandemic and facilitated a move to a more digitalised justice sector.

The temporary justice measures being consulted on conform in particular to the digital principle “inclusive, ethical and user focussed” from the Scottish Government’s March 2021 [Digital strategy: “A changing nation: how Scotland will thrive in a digital world”](#). These provisions enabled a progressive response to the justice system and the continuation of these measures in primary legislation would ensure the future resilience of the sector, ensuring the system can deliver efficient and effective justice services in the future.

The measures would also enable flexibility, appropriate choice and a person-centred approach in the way processes are managed for those who use the system, including victims, witnesses and the accused and maximise the use of technology where appropriate in our procedures and practices.

The consultation

This consultation covers multiple inter-related topics and you do not have to answer every question. Efforts have been made to structure the paper to make it accessible, acknowledging that some will have an interest in all the proposals while others will wish to focus on those of greatest interest or relevance to them.

Some of the proposals in the paper relate to technical criminal procedure. We have sought to present the issues and the questions in an accessible way so that they are understood by everyone. A glossary is provided to explain specific terms.

The paper is structured as follows and references to chapters within the questions refer to these:

Chapter One: **Conduct of business by electronic means in criminal cases: documents** - Question 1

Chapter Two: **Virtual attendance – criminal courts** - Questions 2 to 3

Chapter Three: **National Jurisdiction for Callings from Custody etc.** – Question 4

Chapter Four: **Fiscal Fines** - Question 5

Chapter Five: **Digital Productions** - Questions 6 to 8

Chapter Six: **Modernisation of the Law on Copy Documents** – Questions 9 to 13

Chapter Seven: **Further Views – Modernisation of criminal justice procedures through greater use of digital processes** – Question 14

Chapter Eight: **Impact Assessments** – Questions 15 to 22

Chapter 1 - Conduct of business by electronic means in criminal cases: Documents

Legislative reference: [Part 1, Chapter 1 of the Schedule of the Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#)

We propose that the current temporary provisions enabling electronic signing and sending of documents in criminal courts should be made permanent.

The use of digital transmission of documents and the use of electronic signatures have enabled court services to operate more efficiently, make best use of resources and to contribute to a more streamlined, modern and sustainable justice system.

These temporary provisions have been in force since 2020. They are heavily used and there is widespread support for making them permanent. Partners report that they have created significant efficiencies, and that expiring them would undermine progress towards a more modern justice system. Current uses of the provisions include all High Court indictments being received electronically and search warrants being granted remotely.

The 2022 Act introduced permanent provisions enabling electronic document submission for other public services, e.g., for the registration of births and deaths, and applications to the Land Registry.

Making these provisions permanent in the criminal justice sector through the proposed Bill would be consistent with the modernisation already undertaken in other spheres.

It is therefore proposed that the current temporary provisions around electronic signing and sending of documents in criminal courts should be continued and made permanent through provisions which provide:

- that documents which would normally have to be signed in ink can instead be signed electronically.
- that documents which would normally have to be physically delivered can instead be transmitted electronically (for example by email).
- that documents which would normally have to be sent to a party in a case can instead be sent to the person's solicitor.
- that the head of the Scottish criminal courts (the Lord Justice General) can direct that there should be exceptions to the rules described above so that in some instances, physical documents and signatures or sending to the person themselves, should instead be used.

Question 1

It is proposed that the provisions for Chapter 1 (Conduct of business by electronic means in criminal cases: documents) will be made permanent. Which of the following best describes your view?

I think the provisions for Chapter 1 should be made permanent.

I think the provisions for Chapter 1 should be made permanent, with exceptions (please outline exceptions below).

I do not think the provisions for Chapter 1 should be made permanent.

Unsure.

I have no view.

If you have any comments on the proposal for permanency of these provisions, please provide them below.

Chapter 2 - Virtual attendance – criminal courts

Legislative reference: [Part 1, Chapter 2 of the Schedule of the Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#)

We propose that the current temporary provisions allowing people to attend a criminal court by electronic means (for example, by live video link) should be made permanent.

For most criminal business, the default is that people attend hearings physically. However, a court can overturn this on a case-by-case basis and direct a person to attend virtually, if it is satisfied that would not prejudice the fairness of proceedings, or otherwise be contrary to the interests of justice.

The Scottish Government also proposes retaining the Lord Justice General's power to issue determinations to change the default to virtual attendance for certain types of cases or in certain circumstances. The availability of the determination-making power provides flexibility for the default approaches for different types of case and different circumstances to be tailored to reflect the latest operational practice. We would ask you to note that there is an exception to this power: the Lord Justice General cannot issue a determination that trials should be held virtually by default. However, a court can direct a person to attend a trial virtually, on a case-by-case basis.

If the default is that someone would need to attend court in person – or if the court has specifically directed them to attend in person – then the prosecution or defence can request that the person attends virtually instead. The reverse is also true: if the default is that someone participate virtually, or the court has directed them to attend virtually, the prosecution or defence can request that they attend in person instead. The decision is ultimately for the court, applying the tests of fairness and interests of justice set out in the legislation.

These provisions were utilised to particularly notable effect through the remote jury model, an innovative approach that ensured court capacity could be maximised while requirements for physical distancing in place. However, they have also enabled the justice sector to respond to wider challenges, supporting business to continue and adapt.

Many European countries – including France, Germany, Ireland, Norway and Sweden¹ – already had legislation on virtual hearings in place before the pandemic, but the pandemic accelerated their use, and work continues to build on that progress. For example, the German Bundestag is currently considering a Bill to expand the use of video hearings for civil and certain specialist business, to modernise the system and improve access to justice.

¹ Sanders, A., 2021. *Video-Hearings in Europe Before, During and After the COVID-19 Pandemic*. *International Journal for Court Administration*, 12(2), p.3. DOI: <https://doi.org/10.36745/ijca.379>

In Scotland, whilst the provisions were enacted to respond to the impact of public health restrictions, they had already been identified important features of a modern criminal justice system. Justice agencies and victim support organisations have expressed strong support for maintaining these provisions.

When consulted on extending this current temporary measure for a further year, victim support organisations highlighted that attending court physically can be traumatising for people affected by crime - particularly if they face the prospect of meeting the person who has caused them harm, or that person's family or supporters – and suggested that returning to more limited scope for virtual attendance by victims and witnesses would be regressive.

Justice partners, including Scottish Courts Tribunal Service (SCTS), Police Scotland and the judiciary, emphasised that virtual attendance can both support more person-centred approaches to justice – for example, virtual custody appearances can reduce the amount of time the accused spend in custody and help ensure that the system's resources are used as efficiently as possible - for example, by enabling police officers to give their evidence remotely when appearing as professional witnesses, reducing the amount of time they are taken away from the communities they work in.

Legal professionals welcomed the ability to participate remotely in certain proceedings (like preliminary hearings in the High Court) however had mixed views of virtual hearings. The Scottish Government's 2022 consultation on [Improving Victims' Experiences of the Justice System](#) sought views on whether virtual summary trials should be a permanent feature of the criminal justice system. Just under two thirds of respondents (61%) said that they should be a permanent feature, while only 7% disagreed, with the remainder unsure.

Longstanding legislation already allows for people to participate in proceedings by live TV link in certain limited circumstances (see sections 271H, 271J and 288H of the [Criminal Procedure \(Scotland\) Act 1995](#)).

As technologies improve, and people increasingly expect to be able to engage with public services digitally, allowing the flexibility for wider use of electronic participation has the potential to make justice processes more efficient and accessible. It also gives justice partners the tools to be able to continue to innovate to improve people's experiences of justice processes - for example through pilots like those on fully virtual summary domestic abuse courts, and on virtual custody courts.

Making current temporary measures permanent in criminal cases would ensure that the court system can continue to function as efficiently as possible in a way which does not impede access to justice. It would also support the transformation to a more trauma-informed and person-centred justice system, by enabling the courts to tailor the mode of attendance to individuals' circumstances where that is appropriate. We therefore propose to make permanent:

- that in criminal proceedings in which the only party is a public official, attendance may be by electronic means, unless the court directs physical attendance. This covers for example applications for a search warrant.
- that in a criminal trial, the requirement to attend physically still applies, but the court has the power to allow a person to attend by electronic means in a particular case.
- that in criminal proceedings other than those described above, the requirement to attend physically does not apply where a determination under the [Criminal Courts Determination 2022](#), made by the Lord Justice General states that it does not, unless the court has directed the person to appear physically;
- that where someone is to attend a hearing by electronic means, the court will set out how that is to happen in a direction.

Question 2

It is proposed that the provisions in Chapter 2 (Virtual attendance – criminal courts) will be made permanent. Which of the following best describes your view?

I think the provisions for Chapter 2 should be made permanent.

I think the provisions for Chapter 2 should be made permanent, with exceptions.

I do not think the provisions for Chapter 2 should be made permanent.

Unsure.

I have no view.

If you have any comments on the proposal for permanency of this provision, please provide them below.

Question 3

If you have any views on whether there are any specific factors the court should have to take into account when deciding whether it's appropriate for people to participate in proceedings by electronic means, please provide them below.

Chapter 3 – National Jurisdiction for Callings from Custody etc.

Legislative reference: [Part 4 of the Schedule of the Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#)

We propose to make permanent provisions to enable all sheriffs to hear custody cases no matter where the accused is being held, no matter where the sheriff normally has jurisdiction, and no matter where the alleged offence took place.

Normally in criminal proceedings, cases are dealt with on the basis of where offences are committed. This would be within the sheriffdom where the offence was committed, usually also in the sheriff court district where it was committed, and that would include first appearances. A sheriffdom is a geographical area governed by a sheriff principal for the purposes of splitting Scotland into six areas for processing of cases. Sheriffdoms are further broken down into sheriff court districts.

The measure was originally legislated for in the Coronavirus (Scotland) Act 2020, and retained on a temporary basis through the [Coronavirus \(Extension and Expiry\) \(Scotland\) Act 2021](#) and the Coronavirus (Recovery and Reform) (Scotland) Act 2022. It extends a sheriff's jurisdiction throughout Scotland to deal with first appearances from police custody and enables the court before which such a first appearance occurs to hear any continuation of a case up until a not guilty plea is tendered, if that occurs (or until the stage of proceedings known as full committal in more serious cases, known as solemn proceedings). In so doing, the measure allows the national court to deal with guilty pleas and move them out of the court system minimising the number of cases that have to be transferred to local court.

Maintaining a national jurisdiction for custody cases as a feature of our criminal justice system would enable a flexible response in the management of custody business in response to public health threats, either present or emerging.

Justice partners including SCTS and Police Scotland have expressed clear support for permanency due to the continued flexibility and efficiency in the programming and management of custody court business which is provided for through a national jurisdiction for callings from custody.

They have also recognised that, maintaining the provisions would enable an effective operational response to transport disruption, severe weather, large public events or other unexpected situations that restrict either the capacity to move an accused person or to use court facilities within a particular area. In the absence of such, the law would revert to the pre pandemic position that criminal proceedings before a sheriff court must take place in a court in the sheriff court district where the offence was allegedly committed. Though there are existing powers to transfer cases between sheriffdoms, this requires a judicial order for each individual case, making it extremely onerous and not suitable in light of custody timescales, where cases have to be brought to court quickly.

As has been noted by Police Scotland, this measure supports the move to modernise our court procedures and processes and the increased use of technology. In particular, a national jurisdiction for custody cases would enable the increased use of virtual

custody courts by allowing accused persons to attend any sheriff court in Scotland remotely by electronic means from the local police station they are being held in, and have their case dealt with by any sheriff across the country. This may minimise the length of time a person is held in custody prior to their first court appearance and enable the swift and efficient processing of custody cases.

Question 4

It is proposed that the provisions for Chapter 3 (National Jurisdiction for Callings from Custody etc.) will be made permanent. Which of the following best describes your view?

I think the provisions for Chapter 3 should be made permanent.

I think the provisions for Chapter 3 should be made permanent, with exceptions.

I do not think the provisions for Chapter 3 should be made permanent.

Unsure.

I have no view.

If you have any comments on the proposal for permanency of this provision, please provide below.

Chapter 4 – Fiscal Fines

Legislative reference: [Part 2 of the Schedule of the Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#)

Fiscal fines are disposals which are offered as an alternative to prosecution and are considered in appropriate cases, which would otherwise have proceeded in the lowest level of criminal court in Scotland – the Justice of the Peace Court, by the procurator fiscal. This enables cases to be resolved without the need for court procedure and associated appearance at court which enables the courts and prosecutors more time to deal with more serious cases.

Fiscal fines are offered as a penalty and allow the alleged offender to refuse the offer by giving notice to the court to that effect. In such an event the refusal is treated as a request by the alleged offender to be tried for the offence in which case the procurator fiscal will then decide whether to prosecute.

We propose to make permanent the increase in the maximum level of fiscal fine from £300 to £500 originally legislated for in the Coronavirus (Scotland) Act 2020, and retained on a temporary basis through the Coronavirus (Extension and Expiry) (Scotland) Act 2021 and the Coronavirus (Recovery and Reform) (Scotland) Act 2022 (the 2022 Act) to enable alternative action to prosecution to continue to be taken in a wider range of summary cases as an alternative to prosecution in court.

The proposal also seeks to make permanent the new scale of fixed penalties which may be offered by the Crown Office and Procurator Fiscal Service (COPFS) as an alternative to prosecution. The new scale is set out in the 2022 Act and ranges from £50 to what was a new maximum level of £500. The pre-Covid maximum level was £300.

The 2022 Act introduced a new, more balanced, nine-point scale to that which was originally introduced by the Coronavirus (Scotland) Act 2020. The new nine-point scale includes the seven levels of fiscal fine that were available to prosecutors before the 2020 Act (up to £300) and two new levels of fiscal fine of £400 and £500, reflecting the experience of using the seven-point scale put in place at the start of the pandemic.

Crucially, this will ensure there is no increase to the level of fiscal fine offered in individual cases which would previously have been dealt with in this way prior to the pandemic which therefore allows for proportionate penalties to be issued by prosecutors for lower-level offences while also providing a higher maximum penalty for appropriate cases. It will also better enable alternative action to prosecution to be taken in a wider range of summary cases without the need for court procedure and associated appearance at court.

In accordance with the revised policy guidance in relation to fiscal fines issued in April 2020 by the Lord Advocate as head of the prosecution system in Scotland, the increase in fine amounts has enabled alternative action to prosecution to be taken in a wider range of summary cases during the impact of the pandemic on the justice system, where such action is assessed as appropriate by prosecutors.

Information provided by COPFS outline that since implementation of the initial version of the revised scale on 7 April 2020, on average, 3% of individuals offered a fiscal fine and 0.4% of individuals offered a combined offer (a combination of both a fiscal fine and a compensation offer) have been issued with a fine amount between £300 and £500.

Any penalties offered by a procurator fiscal must reflect the scale prescribed under the Criminal Procedure (Scotland) Act 1995. If any changes to the scale of fiscal fines are decided upon, this could be possible through an affirmative order under section 302(7) and (7A) of the 1995 Act rather than through primary legislation.

Question 5

It is proposed that the provisions for Chapter 4 (Fiscal fines) will be made permanent. Which of the following best describes your view?

I think the provisions for Chapter 4 should be made permanent.

I think the provisions for Chapter 4 should be made permanent, with exceptions.

I do not think the provisions for Chapter 4 should be made permanent.

Unsure.

I have no view.

If you have any comments on the proposal for permanency of this provision, please provide them below.

Chapter 5 - Digital Productions

An area that supports modernisation in our justice processes is the way evidence is gathered and processed in the criminal justice system. More evidence than ever is being captured in a digital format with opportunity to further expand in this area. The quantity and types of digital evidence has grown and will continue to expand in line with the use of digital technology in all aspects of business and life. This demand will continue with the introduction of Body Worn Videos to every front-line police officer in Scotland.

The Digital Evidence Sharing Capability (DESC) modernises and streamlines the way digital evidence is collected, managed, and shared throughout the criminal justice process, removing the need for a physical item to be presented in court. Digital evidence is submitted securely, it is stored, shared, accessed, and presented digitally. Digital evidence can be shared by members of the public at the point of reporting a crime to the police. This evidence is then onward shared with the prosecution and defence agent for the accused to allow early consideration and possible resolution of cases. The use of digital evidence through DESC has the potential to improve the experience of victims, witnesses, and the accused in terms of providing swifter justice.

Given the benefits of being able to quickly and easily obtain and use digital images in the criminal justice system we now propose that images of physical productions should be admissible in evidence in the same way as if the item itself had been produced in court.

Background to physical productions

Evidence in criminal cases can take many forms. It can be digital, for example CCTV or mobile phone footage, documentary, for example medical records and it can be what is called “physical evidence”, actual items. These can include for example the proceeds of a theft, a knife used in an assault, controlled drugs or clothing taken from a victim or accused. When they are taken by the police for the investigation of a crime or offence this is known as seizure.

The police officer who will report the crime to the procurator fiscal will generally decide what productions to seize. Productions will be seized if they are evidentially necessary to assist the investigation or required for forensic examination.

The physical evidence then requires to be stored by the police. If the case is reported to the procurator fiscal and court proceedings are taken, the physical evidence will continue to be stored by the police until the procurator fiscal requests to have it lodged with them. This could be to allow preparation for trial and thereafter for producing the evidence at trial.

In the most serious cases, which are prosecuted in the Sheriff and Jury and High Courts, the physical evidence also needs to be lodged with the clerk of court before the trial. In cases prosecuted under summary procedure before the Sheriff sitting alone or the justice of the peace, the police will be asked to either lodge the physical

evidence with the procurator fiscal to take to the court on the day of the trial or bring the physical evidence to the court for the trial diet itself.

A large amount of property is seized by the police as potential productions for criminal cases. Only a small proportion is produced in court and only those items which are necessary for the proof of the charge require to be produced in court.

Storage of productions in secure conditions, accounting for them and transporting them to and from court is very resource intensive across Police Scotland, Crown Office and Procurator Fiscal Service and Scottish Courts and Tribunal Service.

At present a physical production may be required as best evidence and therefore is usually required to be produced in the court. If such evidence is not produced in court, there may be an objection to the evidence or a submission of no case to answer and the Crown case may fail. In order to safeguard the position, the police and the Crown may consider it necessary to retain many productions and produce them in court at the trial. We consider however that rather than have the physical piece of evidence in court, the evidence could and should be presented in digital form, by an image.

The law therefore needs to change to allow for this to happen in a straightforward and practical way and to allow the digital image to be received in evidence without objection on the basis that the original item has not been produced to the court, and to treat the image as the equivalent of the actual production itself.

Benefits of using digital images

Some of the advantages of being able to take and share digital images of physical productions are:

- In some instances, the property of victims and witnesses does not require to be seized in the first place.
- The images of the physical productions can be shared with the defence at an early stage to allow them to examine them online or consider whether they require to make physical examination of them or for instance require to have them examined forensically.
- It is a much more efficient way of storing and handling evidence - it reduces the movement of evidence between the police, procurator fiscal and the court which is costly in terms of movement and time spent booking productions in and out of police production stores, procurator fiscal and Scottish Court and Tribunal offices.
- Where a trial is held wholly virtually, and witnesses are giving evidence remotely all parties can view the productions in the same way if they are presented digitally.
- At trial it will allow juries, witnesses and the parties to view the evidence at the same time in the same way. This could enhance the quality of the evidence which is being examined so if there are features that need to be brought to the attention of the parties this can be done in a way that all parties can see them.

Procedural Considerations

There will still be items that require to be retained for examination by the prosecutor and on behalf of the accused and would still require to be stored. However, the need to continue to transport them for presentation in court would not be necessary if a digital image of the production would suffice.

It would remain the case that it would be for the prosecutor or the defence agent to determine how they will present their evidence and so the prosecutor or defence agent may decide to have the actual physical item in court.

There may be circumstances where the defence agent requires an object to be produced in court which the prosecutor wishes to simply produce an image of, on the basis that if the article itself was not produced it would cause material prejudice so as to be unjust.

In solemn cases, which are tried on indictment before the High Court or a Sheriff sitting with a jury, an indictment is served on the accused which contains the charges the accused faces, and a list of the productions the prosecutor may be leading in evidence before the court during the trial. It would therefore be open to the defence to raise this issue through the defence statement under section 70A of the Criminal Procedure (Scotland) Act 1995 (the 1995 Act). It could be raised at a procedural hearing in the High Court or in Sheriff and jury proceedings as a preliminary plea or issue under section 79A of the 1995 Act for the court to resolve.

In summary cases which proceed before the sheriff sitting alone or justice of the peace the situation is different. In these cases, there is no requirement for the prosecutor to tell the defence which productions they will be seeking to rely on during the trial. If the defence wished a particular item brought to court that would be a matter of discussion between them and the prosecutor particularly at the pre-intermediate diet meeting between the prosecutor and the defence agent if one took place. If agreement could not be reached, or no pre intermediate diet meeting took place then the matter could be the subject of discussion or debate at an intermediate diet before the sheriff. The defence may also be able to object to the evidence in these circumstances at the trial.

Practical considerations

We would expect in any trial that the image would be led in evidence in the same way evidence would be led about the physical production and witnesses would be required to give evidence about the significance of the item. The image of an object may not tell the whole story, so it will be essential that images are supplemented with information about the production to allow the court to understand the relevance of it. This could include for example, information on the weight and size of productions as well as the use of a scale to supplement the presentation of the item in a digital format. For example, if a knife was seized, it would be important to have a scale beside the blade to show the size of the blade.

The accuracy and the quality of the digital image is of the utmost importance. For instance, if the significance of a physical production was its colour, then this would have to be accurately presented in any image.

There must also be assurance that the integrity of the image is secure and that the image has not been manipulated inappropriately. (It may of course be legitimate for instance to enlarge the image to show particular features.) DESC can provide that assurance through its automatic and tamper-proof audit function which shows every activity on the uploaded file from its receipt to the conclusion of the case. So, whilst DESC does allow police officers and prosecution staff to clip or redact the original image, the original file uploaded to DESC of the image remains intact. The redacted or clipped file is produced as a separate file bearing its own unique identification number. Therefore, if any question arose about the evidential impact of changes to the original image the fact the original image is still available with the audit trail would show what these changes were.

We consider that the proposal to ensure that presenting digital images would be equivalent to having a physical item in court promotes the use of modern technology and will support greater efficiency across the criminal justice system and along with the proposal to have virtual trials could enhance the way that evidence is led to create improvements in the court experience.

Question 6

Do you agree or disagree with the proposal that digital evidence should be used to produce evidence in courts in criminal cases rather than having to produce the original item in court?

Agree

Disagree

Unsure.

I have no view.

Please elaborate on your answer, setting out any advantages or disadvantages of the proposal as you see them.

Question 7

Do you agree or disagree with the proposal that where an image is produced that it can be treated as if it was the item itself that was being produced?

Agree

Disagree

Unsure.

I have no view.

Please elaborate on your answer, setting out any advantages or disadvantages of the proposal as you see them.

Question 8

Do you agree or disagree that the current procedural framework as outlined in chapter 5 would allow the defence to seek for the physical production to be brought to court if its absence would prejudice a fair trial??

Agree

Disagree

Unsure.

I have no view.

Please elaborate on your answer, setting out any advantages or disadvantages of the proposal as you see them.

Chapter 6 – Modernisation of the law on copy documents

An area where the law could be modernised to update and future proof it for technological developments is the way in which copy documents are admitted in evidence in court.

Currently the law and associated court rules require a person to sign a certificate to be attached to a copy document, to allow it to be used as evidence thereby verifying its authenticity.

Modern methods of sharing and producing evidence could not have been envisaged at the time the existing requirements were introduced and are so reliable that rather than having a person certify something is a copy, an auditable system can provide complete assurance on its authenticity.

To ensure that we can maximise existing and potential digital innovations, now and in the future, legislation relating to the use of copy documents in criminal cases needs to be updated and future proofed.

Related to that, we are also proposing to modernise the system of proof of copy physical documents. Rather than only rely on certification as a method of authentication, we consider the courts should be given more discretion to accept that a document is a copy where there is, for instance a defect in the certification under the schedule 8 regime, including by way of leading oral evidence.

Copy documents

Historically, and at the time of the Scottish Law Commission's (SLC) 1992 ['Evidence: Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings'](#), the general common law rule in criminal proceedings was that a copy of a document which is in existence was generally inadmissible i.e., it could not be produced as evidence in court. A copy was normally admissible only when the original document itself was unavailable. In this Report the SLC drew attention to the reliability of modern methods of copying, and the inconvenience of producing original documents where copies could reasonably be used.

The recommendations from that SLC Report became the basis for what is now section 279 and Schedule 8 of the Criminal Procedure (Scotland) Act 1995. These provisions provide a scheme to allow copy documents to be used in evidence using certificates to authenticate the copy documents.

Schedule 8 of the 1995 Act provides that an authenticated copy shall, unless the court directs otherwise, be deemed a true copy, and treated as if it were the document itself, regardless of how many removes there are between it and the original, and whether the original document is still in existence. A document is "authenticated in such manner and by such persons as may be prescribed". This has been achieved by Court Rules. The rules require a certificate to be signed and either endorsed on or attached to a copy document or a copy of a material part of a document. The certificate can be signed by a person who is the author of the original, who is in or who has been in possession and control of the original or a copy

of it; or the authorised representative of the person in, or who has been in possession or control of the original or a copy of it. (See rule 26.1 of the Act of Adjournal (Criminal Procedure Rules) 1996.) Whilst there is one form there are 24 permutations of who can certify a copy or the material part of a copy document.

Document was given a wide definition in schedule 8. It includes not just documents in writing. In addition, a document includes any map, plan, graph or drawing. Any photograph, disc, tape, soundtrack or other device in which sounds, or other data, are recorded so as to be capable with or without the aid of some other equipment, of being reproduced therefrom; and any film negative, tape, disc or other device in which one or more visual images are recorded so as to be capable of being produced therefrom.

At present, for example, if footage from a mobile device is required to be used in court, that footage is downloaded onto a disc or pen drive. A certificate requires to be completed by a person, usually the person who was in possession and control of the phone when the copy was made, certifying that is a copy of the footage and then the certificate is attached to the disc or pen-drive. In that way the copy of the footage on the disc or pen-drive can be deemed a true copy and used in evidence in a court case. The completion of certificates by civilian witnesses is usually done with the assistance of a police officer.

There are occasions when a copy document requires to be edited or redacted before it can be produced in a form that is suitable for leading in evidence in court. The reason for this is often to remove sensitive material, information that is prejudicial to the accused or just to delete the parts of the document that are not relevant to the case. This requires the document then to be recertified as the copy of a material part of the document.

Documents and Digital Evidence Sharing Capability (DESC)

The way in which evidence can now be shared and stored in criminal cases has changed due to advances in technology. This is particularly due to the development of DESC, a digital service which allows for the collection, editing and sharing of digital evidence at every stage of a criminal case and prosecution across the justice sector, delivering a digital pathway from crime scene to court room.

DESC is currently being piloted allowing the collection of digital material such as CCTV footage, photographs, and footage from mobile devices. Looking to the future we anticipate that once Body Worn Video is rolled out by Police Scotland, they will upload the relevant footage to DESC to be used as evidence. Digital files can be shared directly from DESC rather than being downloaded onto a pen-drive or disc. The files are stored, edited, transmitted, and presented in court all digitally through DESC and all with an audit trail.

In the example above where files had to be downloaded onto a separate disc or pen-drive, footage can now be accessed directly from DESC without the need for any physical media. Once the footage is in DESC it can be edited there either by the police or the prosecutor if required, for example, to redact or provide an extract of the original file.

When footage from a mobile device is uploaded to DESC, the original evidence file is never altered. Each file is provided with an industry standard unique identification value. It will also show who uploaded the file along with the date and time of the upload. The uploaded footage will be available in DESC until court proceedings are finished and policies in relation to retention of information are applied.

Given the level of detail held within the digital application we do not consider that it is necessary to also obtain a certificate from a person that the information uploaded to DESC is a copy.

DESC also allows authorised police officers and prosecution staff to edit or redact the original file. The edited or redacted file is saved as a secondary file, bearing its own unique identification value and showing who made the edit and when the edit was made. This is recorded in a tamper proof audit trail. If the original footage as uploaded is to be used in evidence, it will be disclosed to the defence.

Where an edited version is to be used as the evidence in the case, it will be disclosed to the defence. It would be clear to the defence that they have been provided with an extract of the original file because the file bears a different unique identification value. Again, in these circumstances we do not consider that it should be necessary to obtain a certificate from the person who edited the document. Details of who made the edit and when the edit was made are again recorded in the tamper proof audit trail.

The schedule 8 scheme is limited only to ensuring that copy documents can be used in evidence. It does not remove the need to lead evidence about the content of the document and to show how it is relevant to the case. So, for example, if a person provides images of an alleged assault from their mobile device to DESC, they may still be required as a witness to give evidence about where and when the alleged assault happened and who was involved.

Question 9

It is proposed that the transfer of digital files to any reliable digital evidence system such as DESC (which has a robust audit system) should remove the requirement of certification as outlined in the scheme under the 1995 Act. Which of the following best describes your view on this proposal?

I agree.

I do not agree.

Unsure.

I have no view.

If you have any comments on this proposal, please write them below.

Question 10

Whilst the examples given have related to files from mobile devices, there are other types of documents which could be transmitted into DESC, especially as the term document is given a wide definition in schedule 8. This could include items such as photographs of evidence or paper copies of a traditional document which are scanned and uploaded to DESC.

It is proposed that any type of document uploaded to DESC should be accepted as a true copy without the need for separate certification. Which of the following best describes your view on this proposal?

I agree.

I do not agree.

Unsure.

I have no view.

If you have any comments on this proposal, please write them below.

Question 11

If there were to be a challenge to the admissibility of the evidence held within DESC on the basis that the image is not a true copy, we do not consider that any new procedure need be introduced to allow this challenge. We consider that there are sufficient procedures currently in place to allow a challenge to the admissibility of such evidence through procedural pre-trial hearings in all courts.

It is proposed that any issue in relation to the admissibility of the copy held in DESC could be raised through the pre-trial hearing system already in place.

Which of the following best describes your view on this proposal?

I agree.

I do not agree.

Unsure.

I have no view.

If you have any comments on this proposal, please write them below.

Question 12

Certification under schedule 8 will still be needed for copies of documents which are not uploaded to DESC. There are occasions where the certification of the document is incorrect or missing an essential piece of information. Where there is no valid certificate the copy document cannot generally be accepted into evidence in place of the original.

Whilst we do not consider that there should be any separate procedure to challenge the admissibility of copy documents certified under schedule 8 due to defect in certification, as the issue should be raised at a procedural hearing, an issue may arise if such a defect is not detected until after a procedural hearing in the case, particularly if it is only discovered shortly before or at the trial.

If this happened at the trial, it could potentially result in a trial being halted for the matter to be resolved or a decision taken that the copy document could not be put in evidence. This could not just cause inconvenience to victims and witnesses but could also result in the failure of a case.

At present the ways to remedy the defect would include having the document re-certified, or to try and obtain the original document to put in evidence. This second course may not be possible as the original may no longer exist. Both of these routes to correct a defect would be time consuming.

We do not consider that this should be necessary. There may be sufficient information before the court to allow it to accept that the copy document is a true copy. We therefore consider that the law should be more flexible. The court could be given a discretion to allow the copy document to be admitted if satisfied it is a copy despite any defect in certification.

It is proposed that the court therefore be given a discretion to allow a document to be led in evidence if satisfied it is a copy document despite any defect in certification. Which of the following best describes your view on this proposal?

I agree.

I do not agree.

I am unsure.

I have no view.

If you have any comments on this proposal, please write them below.

Question 13

One of the ways a court may be satisfied that a document is a copy document is to simply hear oral evidence of that fact. It is therefore also proposed that the court should be able to hear evidence from witnesses, to allow it to be satisfied that the

document can be deemed a true copy and treated for evidential purposes as if it were the document or material part of the document.

Which of the following describes your view on this proposal?

I agree.

I do not agree.

I am unsure.

I have no view.

If you have any comments on this proposal, please write them below.

Chapter 7 – Further Views – Modernisation of criminal justice procedures through greater use of digital processes

The proposals within this consultation support our commitment to modernise justice processes through greater use of digital processes, but we are also keen to seek views on whether further changes in legislation are required to support the future resilience, effectiveness and efficiency of the criminal justice sector to achieve this commitment.

Question 14

Out with the proposals outlined in chapters 1 -6, do you think any further legislative changes are needed to support the modernisation of criminal justice procedures through greater use of digital processes in order to achieve our ambitions of an efficient and resilient criminal justice system?

Yes.

No.

Don't know.

If you answered yes, please provide details of what those legislative changes might be.

In your answer, please make reference to the particular procedure, how any additional legislation would support modernisation and what these legislative changes would achieve.

Chapter 8 – Impact Assessments

We are carrying out impact assessments as part of this consultation in order to identify issues that may affect some groups more than others and to consider how we will address these issues. The assessments also explore what impacts the proposals will have on matters such as privacy, business and the environment. In addition, we need to ensure the proposals comply with the European Convention on Human Rights (ECHR).

This chapter seeks views on the potential impacts of proposals in this consultation.

The questions on the potential impacts of the proposals are broken down in line with the formal assessments carried out by the Scottish Government, which are:

- Compliance with ECHR
- Equality Impact Assessment
- Child Rights and Wellbeing Impact Assessment
- Fairer Scotland Duty Assessment
- Islands Community Impact Assessment
- Data Protection Impact Assessment
- Business and Regulatory Impact Assessment
- Strategic Environmental Assessment

We recognise that some proposals will have much greater impacts than others and that there may be some areas where there are minimal impacts. We also recognise that there will be commonality in terms of the impacts across different proposals.

Given this, when answering the questions below it would be helpful if you could set out the specific proposals to which you are referring when describing any impacts which you think should be considered.

1. Human Rights

The [Human Rights Act 1998](#) incorporated the [European Convention on Human Rights \(ECHR\)](#) into Scots law. It means that public authorities, such as the Scottish Government, must not act in a way which is incompatible with the rights set out in the ECHR. It is therefore vital that we consider how the proposals will impact on human rights.

Question 15: Do you have any views on potential impacts of the proposals in the chapters of this consultation on human rights?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

2. Equalities

The [Public Sector Equality Duty](#) requires the Scottish Government and other public bodies when they are exercising their functions to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the [Equality Act 2010](#)
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

For the purposes of the Public Sector Equality Duty, a 'relevant protected characteristic' means age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 sets out nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Public Sector Equality Duty includes a requirement for the Scottish Government and other public bodies to have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Equality Act 2010.

Question 16: Do you have any views on potential impacts of the proposals in the chapters of this consultation on equalities and the protected characteristics set out above?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

3. Children's rights

The [UN Convention on the Rights of the Child](#) (UNCRC) is an international treaty which sets out the fundamental human rights of all children. [Part 1 of the Children and Young People \(Scotland\) Act](#) places a duty on the Scottish Ministers to (a) keep under consideration if there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements and (b) If they consider it appropriate to do so, take any of the steps identified by that consideration.

All new legislation and policy that is developed by the Scottish Government must consider the impacts on the rights and wellbeing of children up to the age of 18.

Question 17: Do you have any views on potential impacts of the proposals in the chapters of this consultation on children and young people as set out in the UN Convention on the Rights of the Child (UNCRC)?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

4. Fairer Scotland Duty

[The Fairer Scotland Duty](#) came into force on 1 April 2018 and places a legal responsibility on named public bodies, including the Scottish Government, to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions.

This means that as well as considering the impact on people with protected characteristics, the Scottish Government must consider how any proposals will impact on people depending on their economic background. For example, if proposals would have a specific impact on people with low incomes or who live in a deprived area.

Question 18: Do you have any views on potential impacts of the proposals in the chapters of this consultation on socio-economic equality?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

5. Island communities

[Section 7 of the Islands \(Scotland\) Act 2018](#) states that a relevant authority – which includes the Scottish Ministers – must have regard to island communities when carrying out its functions.

Scotland's islands face particular challenges around distance, geography, connectivity and demography, so it is important that this is considered when developing the proposals in this consultation. It is also important that we ensure that the islands receive fair and equitable treatment and that policy outcomes are tailored to their unique circumstances.

Question 19: Do you have any views on potential impacts of the proposals in the chapters of this consultation on communities on the Scottish islands?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

6. Data protection and privacy

Data protection and privacy impact assessments help the Scottish Government to assess the risks of proposed legislative changes that are likely to affect the way in which personal data is used.

Question 20: Do you have any views on potential impacts of the proposals in the chapters of this consultation on privacy and data protection?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

7. Business

A Business and Regulatory Impact Assessment (BRIA) is used to analyse the cost and benefits to businesses and the third sector of any proposed legislation or regulation, with the goal of using evidence to identify the proposal that best achieves policy objectives while minimising costs and burdens as much as possible.

Question 21: Do you have any views on potential impacts of the proposals in the chapters of this consultation on businesses and the third sector?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

8. Environment

In Scotland, public bodies including the Scottish Government are required to assess, consult on, and monitor the likely impacts their plans, programmes and strategies will have on the environment. This helps to better protect the environment, aims to ensure that any development is sustainable and increases opportunities for public participation in decision-making.

Question 22: Do you have any views on potential impacts of the proposals in the chapters of this consultation on the environment?

Yes

No

Unsure

Please provide details, making reference to the specific proposal or proposals to which your comments relate.

Glossary

Term	Definition
Accused	A person charged with committing a crime.
Charge	The crime that the accused is believed to have committed.
Common law	A system of laws based on customs and court decisions rather than on written laws made by parliament. Offences which are created through written laws are known as 'statutory offences'.
Coronavirus Recovery and Reform (Scotland) Act 2022	On 28 June 2022 the Parliament passed this Act to help Scotland recover from the pandemic and ensure greater resilience against future public health threats.
Criminal Procedures (Scotland) Act 1995	The main Act relating to criminal procedure in Scotland.
Covid	Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2)
Crown	Another name for the Crown Office and Procurator Fiscal Service.
Crown Office and Procurator Fiscal Service (COPFS)	The organisation responsible for the prosecution of crime and investigation of deaths in Scotland.
Defence (lawyer/counsel)	The lawyer who represents the accused.
Diet	A court hearing
Evidence	<p>What a witness says when they are asked questions in court.</p> <p>(Evidence can also be physical items that are used in the case, including documents, clothing, and photographs, but references to evidence in this consultation relate to what is said in court).</p>
Extension and Expiry Act	The Coronavirus (Extension and Expiry) (Scotland) Act 2021 ^[3] , introduced to the Scottish Parliament on 18 June 2021 ^[4] , passed on 24 June 2021 and which received Royal Assent on 4 August 2021;
First diet	A hearing in a Sheriff Court case when the Crown and defence lawyers tell the court if they are ready for the case to go to trial.
First Scottish Act	The Coronavirus (Scotland) Act 2020 ^[5] , introduced to the Scottish Parliament on 31 March 2020, passed on 1 April 2020 and which received Royal Assent on 6 April 2020;
High Court	The supreme criminal court of Scotland, where the most serious criminal cases are heard.

Term	Definition
Indictment	A document listing the charges that the accused will face at trial.
Intermediate Diet	This is a hearing in summary (less serious) criminal proceedings which allows the court to check whether a case is likely to go to trial on the date that has been set for it. It is intended to minimise any inconvenience to witnesses and others involved in the case if the trial does not go ahead as planned.
Judge	The legal expert who is in charge of court proceedings.
Judiciary	The collective name for the judges and panel members who sit in the courts of Scotland and make decisions about criminal and civil cases.
Justice of the peace	The judge who is charge of court proceedings for less serious crimes. They are not legally qualified but sit with a legal advisor.
Jurisdiction	The power a court has to hear cases and decide what will happen in the case.
Lord Advocate	The senior Scottish Law Officer who is the head the Crown Office and Procurator Fiscal Service. The Lord Advocate is also a Minister in the Scottish Government.
Lord President	The most senior judge in Scotland, who holds this title and also the title of Lord Justice General. The title of Lord Justice General relates to criminal business and the title of Lord President relates to civil business.
Legislation / statute	The laws passed by the Scottish Parliament and the UK Parliament.
Offender	A person who has been convicted of committing a crime.
Person-centred	When the person is placed at the centre of the service, their needs are understood and they can participate effectively in proceedings.
Pre Intermediate Diet	This is a hearing in summary (less serious) criminal proceedings which aims to ensure that: (i) meaningful communication takes place between defence agents and the crown to resolve cases early; (ii) only those cases which cannot be resolved, and are ready to go to trial, proceed to the assigned trial diet and (iii) parties are present at an intermediate diet only when necessary
Practice note	A document issued by a member of the judiciary which sets out a practice that a court is going to take or inform practitioners such as lawyers about a practice that the court expects them to take.

Term	Definition
Preliminary hearing	A hearing in a High Court case when the Crown and defence lawyers tell the court if they are ready for the case to go to trial.
Procurator Fiscal	A lawyer who works for the Crown Office and Procurator Fiscal Service.
Production	An article produced and lodged as evidence in court.
Prosecutor	A lawyer who presents the case against the accused.
Second Scottish Act	the Coronavirus (Scotland) (No.2) Act 2020 ^[6] , introduced to the Scottish Parliament on 11 May 2020, passed on 20 May 2020 and which received Royal Assent on 26 May 2020;
Scottish Courts and Tribunals Service (SCTS)	An independent body that provides administrative support to the Scottish courts, judges and tribunals.
Sheriff	The judge who is charge of court proceedings in the Sheriff Court.
Sheriff principal	The head of each of Scotland's six sheriffdoms (areas) who are responsible for managing the business in the sheriff courts in their own area.
Solemn proceedings / procedure	Court proceedings for more serious offences. In Scotland, solemn cases are heard by a judge and jury.
Solicitor	Another name for a lawyer.
Summary proceedings / procedure	Court proceedings for less serious offences. In Scotland, summary proceedings are heard by sheriff or justice of the peace sitting without a jury.
Statutory offence	Offences which are created through written laws.
Trial / Trial diet	The proceedings that take place in court if an accused pleads not guilty. The court hears evidence about the alleged crime and at the end of the trial a judge or jury will decide if the prosecutor has proven the guilt of the accused or not.
Victim	A person who has been directly affected by a crime.

Permanency of certain measures from the Coronavirus Recovery and Reform (Scotland) Act 2022: consultation

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
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Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No



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