



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

^{F1}PART I

SOLEMN PROCEDURE

Textual Amendments

- F1** Act repealed (S.) (1.4.1996) by [Criminal Procedure \(Consequential Provisions\) \(Scotland\) Act 1995](#) (c. 40), s. 6(1), [Sch. 5](#) (with ss. 4, 6(2), [Sch. 3](#) paras. 3, 16, [Sch. 6](#))

^{F1}Jurisdiction

- ^{F1}1** Application of Part I of this Act.
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- ^{F1}2** Jurisdiction and powers of courts of solemn jurisdiction.
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- ^{F1}3** Jurisdiction of sheriff.
.....
- ^{F1}4** Boundaries of jurisdiction.
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- ^{F1}5** Procedure in case of crime in different districts.
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Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Criminal Procedure (Scotland) Act 1975 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

^{F1}6 Jurisdiction and procedure in respect of certain indictable offences committed abroad.

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^{F1}7 Theft outside Scotland.

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^{F1}8 Trial of certain crimes and offences in sheriff court.

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^{F1}9 Instructions by Lord Advocate as to reporting offences.

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^{F1}10 Intimation of proceedings in High Court to Lord Advocate.

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^{F1}11 Procedure after intimation.

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^{F1}PROCEDURE PRIOR TO TRIAL

^{F1} Arrest, Judicial Examination, Custody, Bail, Etc.

^{F1}12 Petitions for Warrants.

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^{F1}13 Warrants for arrest of escaped prisoners and mental patients.

.....

^{F1}14 Warrant to search for or remove a child.

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^{F1}15 Warrants granted by justice may be executed throughout Scotland.

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^{F1}15A Warrants for search and apprehension to be signed by judge.

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[^{F1}16 Backing of certain warrants from the Isle of Man.

- (1) A warrant issued in the Isle of Man for the arrest of a person charged with an offence may, after it has been endorsed by a justice in Scotland, be executed there by the person bringing that warrant, by any person to whom the warrant was originally directed or by any officer of law of the sheriff court district where the warrant has been endorsed as aforesaid in like manner as any such warrant issued in Scotland.
- (2) In this section “endorsed” means endorsed in the like manner as a process to which section 4 of the ^{M1}Summary Jurisdiction (Process) Act 1881 applies.

Marginal Citations

M1 1881 c. 24(36:3).

^{F1}17

^{F1}18 **Power of constable to take offenders into custody.**
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^{F1}19 **Prisoners before examination to have access to solicitor.**
.....

^{F1}20 **Accused at examination need not emit a declaration.**
.....

^{F1}20A **Accused at examination may be questioned by prosecutor.**
.....

^{F1}20B **Record to be made of proceedings at examination.**
.....

^{F1}21 **Examination of accused on charges arising in different districts.**
.....

^{F1}22 **Committal until liberation in due course of law.**
.....

^{F1}23 **Remand and committal of persons under 21.**
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F124 Committal of children to custody in place of safety.

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F125 Power of court to commit to hospital a person suffering from mental disorder.

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F126 Bail competent before committal.

.....

F127 Renewal of application for bail after committal.

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F128 Admission or refusal of bail after committal.

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F128A No bail for persons charged with or convicted of homicide or rape after previous conviction of such offences.

.....

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F130 Application for review of court’s decision on bail and caution.

.....

F130A Application by prosecutor for review of court’s decision to grant bail.

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F131 Appeal in respect of bail.

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F132 No fees exigible against accused in respect of application for bail.

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F133 Liberation of applicant when appeal by public prosecutor.

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^{F1}**34**

^{F1}**35** **Right of Lord Advocate and High Court to admit a person to bail.**

^{F1}**36**

^{F1}**37** **Power to order parent to give security for child’s good behaviour.**

^{F1}**38** **Separation of children from adults at courts, etc.**

^{F1}**39** **Attendance at court of parent of child charged with an offence, etc.**

^{F1}**40** **Notice to local authority of charge against a child.**

^{F1} *The Indictment*

^{F1}**41** **Indictment forms.**

^{F1}**42** **Resignation, death or demission of office of Lord Advocate.**

^{F1}**43** **Naming of accused.**

^{F1}**44** **Nomen juris unnecessary.**

^{F1}**45** **Case of two or more persons charged.**

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F1 46 “Guilty, actor or art and part” unnecessary.

.....

F1 47 “All which or part” implied.

.....

F1 48 Qualifying words to be implied.

.....

F1 48A Common law and statutory offences in same indictment.

.....

F1 48B Description of offence in words of statute or order.

.....

F1 49 Quotation of statutes unnecessary.

.....

F1 50 Latitude as to time and place.

.....

F1 51 Latitude as to quantities, persons, things or modes.

.....

F1 52 Description of buildings, goods, money or other property.

.....

F1 53 Description of persons, goods, etc.

.....

F1 54 “Money” to include coin, bank notes and post office orders.

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F1 55 Setting forth documents unnecessary.

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F1 56 Declarations, etc., not averred.

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^{F1}57 **Indictments, etc., written or printed or partly so.**

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^{F1}58 **Authentication of alterations to indictment, etc.**

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^{F1}59 **Reset.**

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^{F1}60 **Robbery, etc. to include reset, and theft to include breach of trust, etc.**

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^{F1}60A **Proceedings under the Merchant Shipping Acts.**

.....

^{F1}61 **Procedure where more than one crime charged.**

.....

^{F1}62

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^{F1}63 **Attempt at crime.**

.....

^{F1}64 **Statutory offences which are offences at common law.**

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^{F1}65 **Superfluous particulars as to identity.**

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^{F1}66 **Proof of exceptions, qualifications, etc.**

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^{F1}67 **Offence committed in special capacity.**

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F1 Notice of previous convictions

F168 Notice of previous convictions.

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F1 Citation of Accused, Witnesses and Jurors

F169 Warrants for citation.

.....

F170 Service of indictment and list of witnesses.

.....

F171 Manner of service of indictment, etc.

.....

F172 Officers may cite jurors and witnesses, without witnesses and oath of officer sufficient evidence of citation.

.....

F173 Execution of citation of indictment.

.....

F174 Proceedings against bodies corporate.

.....

F1 Fixing the Diets

F175 Notice of trial diet.

.....

F175A First diet.

.....

F176 Preliminary diet.

.....

F176A Appeal in connection with preliminary diet.

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^{F1}77 Alteration of trial diet.

.....

^{F1}77A Application for postponement of trial diet.

.....

^{F1} Lodging of List of Witnesses, Productions, Special Defence, Etc.

^{F1}78 Record copy of indictment and list of witnesses.

.....

^{F1}79 Description of witnesses.

.....

^{F1}80 Objection to witness.

.....

^{F1}81 Examination by prosecutor of witnesses, etc., not included in lists lodged.

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^{F1}82 Written notice of special defence and examination of witnesses and productions not included in lists lodged.

.....

^{F1}82A Parties may examine each other’s witnesses etc.

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^{F1}83 Accused entitled to see productions.

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^{F1}84 Proof as to productions.

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^{F1}84A Agreement of evidence.

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F1 Preparation of Jury List, etc.

F185 Number of jurors to be returned for trial.

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F186 Jurors for High Court at Edinburgh.

.....

F187, 88.

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F189 Jurors in inferior courts.

.....

F190 Order in which names of jurors are to be taken.

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F191 Names of jurors dying or becoming disqualified to be passed over in making returns of jurors.

.....

F192 Jurors as returned to serve on trials.

.....

F193 Names of jurors to be inserted in one roll.

.....

F194 One list of assize sufficient for all trials at the same diet in High Court.

.....

F195 No irregularity in lists, etc., to be an objection to jurors.

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F196 Note of jury list.

.....

F197 Sufficient jurors only to be summoned.

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^{F1}98 Jurors to be cited by registered letter or recorded delivery.

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^{F1}99 Fining of jurors for non-attendance.

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^{F1}100 No exemptions by sex or marriage from liability to serve as juror.

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^{F1} Delay in trial

^{F1}101 Prevention of delay in trials.

.....

^{F1} Accelerated Trial

^{F1}102 Procedure where accused desires to plead guilty.

.....

^{F1} First Diet

^{F1}103 Pleas of guilty.

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^{F1}104 Remit to High Court for sentence.

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**^{F1}105
—107.**

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^{F1}108 Certain objections competent only at first diet.

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^{F1}109 Interlocutor of relevancy unnecessary.

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^{F1}110

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F1 111 Postponement on old warrant where diet deserted.

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F1 111A Computation of period.

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F1 Sittings of High Court

F1 112 Place of High Court Sittings.

.....

F1 113 Judges in High Court.

.....

F1 114 Fixing of High Court sittings.

.....

F1 114A Transfer of sheriff court solemn proceedings.

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F1 115
—119.

F1 120
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F1 Procedure at Trial

F1 121,
122.

F1 123 Amendment of indictment.

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F1 124 On plea of guilty, jury to be dispensed with and sentence pronounced.

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^{F1}125 On plea of not guilty, plea to be recorded and jury balloted.

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^{F1}126 On plea of not guilty, the indictment need not be read over.

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^{F1}127 Procedure where trial does not take place.

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^{F1}128 Provision for death or illness of judge.

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^{F1}129 Jury to be chosen by ballot in open court.

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^{F1}130 Challenges and objections to jurors.

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^{F1}131 Juror without citation not to be objected to.

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^{F1}132 Jurors chosen for one trial may continue to serve.

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^{F1}133 Jurors may be excused.

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^{F1}134 Provision for death or illness of jurors.

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^{F1}135. Clerk to state charge, and swear jury.

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^{F1}136 Trial to be continuous.

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^{F1}137 Seclusion of jury.

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^{F1}137A Verdict by judge alone.

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^{F1}138 Witnesses not to be excluded by reason of conviction, interest, etc.

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^{F1}139 Witnesses admissible notwithstanding relationship to parties.

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^{F1}139A Power to permit witness to be in court during trial.

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^{F1}140 Presence in court not to disqualify witnesses in certain cases.

.....

^{F1}140A No case to answer.

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^{F1}141 Accused and spouse competent witnesses for defence.

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^{F1}141ZA Evidence of criminal record and character of accused.

.....

^{F1}141A Evidence in relation to sexual offences.

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^{F1}141B Exceptions to prohibition.

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^{F1}142

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^{F1}143 Spouse to be competent witness.

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^{F1}144

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^{F1}145 Trial in open court.

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^{F1}146

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14^{F17} Witness may be examined, etc., as to having previously made a different statement.

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^{F1}148 Examination of witness.

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^{F1}148A Recall of witnesses.

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^{F1}149 Additional evidence.

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^{F1}149A Evidence in replication.

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^{F1}150 Admissions and agreements as to evidence.

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^{F1}151 Record of proceedings at examination to be received in evidence without being sworn to by witnesses.

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^{F1}152 Defence to speak last.

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^{F1}153 Seclusion of jury, etc., after retiral.

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^{F1}154 Oral verdicts to be returned by juries.

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^{F1}155 Verdicts may be returned by juries without retiring.

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^{F1}155A Taking of other proceedings while jury out.

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^{F1}156 Interruption of trial for verdict in earlier trial.

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^{F1}157 Interruption of trial for plea or sentence in another cause.

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^{F1}158 No proceeding under section 156 or 157 of this Act to be deemed an irregularity.

.....

^{F1}159 Previous convictions.

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^{F1}160 Laying of previous convictions before jury.

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^{F1}161 Laying of previous convictions before judge.

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^{F1}162 Extract convictions to be received and manner of proof.

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^{F1}163

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^{F1}164 Proof of previous convictions by fingerprints.

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^{F1}Procedure at trial involving children

^{F1}165 Child under 14 not to be in court during trial of another person.

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^{F1}166 Power to clear court while child is giving evidence in certain cases.

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^{F1}167 Power to proceed with case in absence of person under 17.

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^{F1}168 Power of court, in respect of certain offences against a child, to refer child to [^{F2}Principal Reporter].

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Textual Amendments

F2 S. 168: words in sidenote substituted (1.4.1996) by virtue of 1994 c. 39, s. 180(1), Sch. 13 para. 97(8) (with s. 74(4)); S.I. 1996/323, art. 4(1)(b)(c)

^{F1}169 Restrictions on report of proceedings involving person under 16.

(1) No newspaper report of any proceedings in a court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any person under the age of 16 years concerned in the proceedings, either—

- (a) as being a person against or in respect of whom the proceedings are taken; or
- (b) as being a witness therein;

nor shall any picture which is, or includes, a picture of a person under the age of 16 years so concerned in the proceedings be published in any newspaper in a context relevant to the proceedings:

Provided that, in any case—

- (i) where the person is concerned in the proceedings as a witness only and no one against whom the proceedings are taken is under the age of 16 years, the foregoing provisions of this subsection shall not apply unless the court so directs;
- (ii) the court may at any stage of the proceedings if satisfied that it is in the public interest so to do, direct that the requirements of this section (including such requirements as applied by a direction under paragraph (i) above) shall be dispensed with to such extent as the court may specify;
- (iii) the Secretary of State may, after completion of the proceedings, if so satisfied by order dispense with the said requirements to such extent as may be specified in the order.

(2) This section shall, with the necessary modifications, apply in relation to sound and television [^{F3}programmes included in a programme service (within the meaning of the Broadcasting Act 1990)] as it applies in relation to newspapers.

(3) A person who publishes matter in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F4}level 4 on the standard scale].

(4) In this section, references to a court shall not include a court in England, Wales or Northern Ireland.

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Textual Amendments

- F3** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), **Sch. 20 para. 21**
- F4** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G and (N.I.) 1984/703, (N.I. 13), art. 5

^{F1}170 Age of criminal responsibility.

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^{F1}171 Presumption and determination of age of child.

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^{F1}172 Welfare of child.

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^{F1}173 Reference and remit of children’s cases by courts to children’s hearings.

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Procedure at trial of persons suffering from mental disorder

^{F1}174 Insanity in bar of trial or as the ground of acquittal.

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^{F1}174ZA Examination of facts.

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^{F1}174ZB Examination of facts: supplementary provisions.

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^{F1}174ZC Disposal of case where accused found to be insane.

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^{F1}174ZD Appeal by accused in case involving insanity.

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^{F1}174ZE Appeal by Lord Advocate in case involving insanity.

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^{F1}174A Interim hospital orders.

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^{F1}175 Power of court to order hospital admission or guardianship.

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^{F1}176 Requirements as to medical evidence.

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^{F1}177 Supplementary provisions as to hospital orders.

.....

^{F1}178 Power of court to restrict discharge from hospital.

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CONVICTION AND SENTENCE

^{F1}Adjournment and remand

^{F1}179 Power of court to adjourn a case before sentence.

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^{F1}179A Offence committed by person under supervision etc.: provision of local authority report.

.....

^{F1}180 Remand for inquiry into physical or mental condition.

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Admonition and discharge

^{F1}181 Admonition.

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^{F1}182 Absolute discharge.

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Caution

^{F1}182A Caution.

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^{F1} Probation

^{F1}183 Probation.

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^{F1}184 Probation orders requiring treatment for mental condition.

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^{F1}185 Discharge and amendment of probation orders.

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^{F1}186 Failure to comply with requirement of probation order.

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^{F1}187 Commission of further offence.

.....

188 Probation orders relating to persons residing in England.

- (1) Where the court by which a probation order is made under section 183 of this Act [^{F5}(not being a probation order including a requirement [^{F6}which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the ^{M2}Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule])] is satisfied that the offender has attained the age of [^{F7}16]years and resides or will reside in England, subsection (2) of the said section shall not apply to the order, but the order shall contain a requirement that he be under the supervision of a probation officer appointed for or assigned to the petty sessions area in which the offender resides or will reside; ^{F8} . . . that area shall be named [^{F9}; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.].
- (2) Where a probation order has been made under section 183 of this Act and the court in Scotland by which the order was made or the appropriate court is satisfied ^{F10}[(a) that the probationer has attained the age of 16 years; (b) that he proposes to reside, or is residing, in England; and (c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside]

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, the power of that court to amend the order under Schedule 5 to this Act shall include power to insert the provisions required by subsection (1) of this section [^{F11}or to vary any requirement for performance of unpaid work so that such hours as remain to be worked do not exceed one hundred]; and the court may so amend the order without summoning the probationer and without his consent.

- (3) A probation order made or amended by virtue of this section may, notwithstanding section 184(8) of this Act, include a requirement that the probationer shall submit to treatment for his mental condition and—
- (a) subsections (1), (3) and (7) of the said section 184 and [^{F12}paragraph 5(3) of Schedule 1A to] the ^{M2}Powers of Criminal Courts Act 1973 (all of which regulate the making of probation orders which include any such requirement) shall apply to the making of an order which includes any such requirement by virtue of this subsection as they apply to the making of an order which includes any such requirement by virtue of section 184 of this Act and [^{F12}paragraph 5 of Schedule 1A to] the said Act of 1973 respectively; and
 - (b) [^{F13}sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to] the said Act of 1973 (functions of supervising officer and medical practitioner where such a requirement has been imposed) shall apply in relation to a probationer who is undergoing treatment in England in pursuance of a requirement imposed by virtue of this subsection as they apply in relation to a probationer undergoing such treatment in pursuance of a requirement imposed by virtue of that section.
- (4) Sections 185(1) and 186(1) of this Act shall not apply to any order made or amended under this section; but subject as hereinafter provided the provisions of [^{F14}Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
- (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
 - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:

Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.]

- (5) If it appears on information to a justice acting for the petty sessions area [^{F15}named in a probation order made or amended under this section that the person to whom the order relates] has been convicted by a court in any part of Great Britain of an offence committed during the period specified in the order, he may issue a summons requiring that person to appear, at the place and time specified therein, before the court in Scotland by which the probation order was made or, if the information is in writing and on oath, may issue a warrant for his arrest, directing that person to be brought before the last-mentioned court.
- (6) If a warrant for the arrest of a probationer issued under section 187 of this Act by a court is executed in England, and the probationer cannot forthwith be brought before that court, the warrant shall have effect as if it directed him to be brought before a magistrates' court for the place where he is arrested; and the magistrates' court shall

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commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court in Scotland.

(7) The court by which a probation order is made or amended in accordance with the provisions of this section shall send three copies of the order to the clerk to the justices for the petty sessions area named therein, together with such documents and information relating to the case as it considers likely to be of assistance to the court acting for that petty sessions area.

(8) Where a probation order which is amended under subsection (2) of this section is an order to which the provisions of this Act apply by virtue of section 10 of the ^{M2}Powers of Criminal Courts Act 1973 (which relates to probation orders under that Act relating to persons residing in Scotland) then, notwithstanding anything in that section or this section, the order shall, as from the date of the amendment, have effect in all respects as if it were an order made under section 2 of that Act in the case of a person residing in England.

Extent Information

E1 S. 188(3)-(8) extends also to England and Wales see s. 463(1)(a)

Textual Amendments

- F5** Words inserted by Community Service by [Offenders \(Scotland\) Act 1978 \(c. 49, SIF 39:1\)](#), **Sch. 2 para. 2**
- F6** Words in s. 188(1) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(i)(with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F7** Word in s. 188(1) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(ii)(with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F8** Word in s. 188(1) ceased to have effect (1.10.1992) by virtue of [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(iii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F9** Words in s. 188(1) added (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(iv) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F10** S. 188(2)(a)(b)(c) substituted (1.10.1992) for certain words by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(b)(i) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F11** Words in s. 188(2) inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(b)(ii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F12** Words in s. 188(3)(a) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(c)(i) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F13** Words in s. 188(3)(b) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(c)(ii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F14** S. 188(4)(a)(b) and proviso substituted (1.10.1992) for certain words by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(d) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F15** Words in s. 188(5) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 16, **Sch. 3**, Pt. II para. 7(3)(e) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M2 1973 c. 62(39:1).

^{F1}189

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Status: This version of this Act contains provisions that are prospective.

Changes to legislation: Criminal Procedure (Scotland) Act 1975 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

^{F1}190

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^{F1}191 **Effects of probation and absolute discharge.**

.....

^{F1}192 **Probation reports.**

.....

^{F1}Penalties for statutory offences

^{F1}193 **Power to mitigate penalties.**

.....

^{F1}193A **Fines on conviction on indictment to be without limit.**

.....

^{F1}193B

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Fines

^{F1}194 **Application of summary procedure provisions relating to fines.**

.....

^{F1}195

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^{F1}196 **Fines, etc., may be enforced in other district.**

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^{F1}197—.....

202.

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^{F1}203 **Fines payable to H.M. Exchequer.**

.....

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F1204
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Imprisonment, etc.

F1205 Punishment for murder.
.....

F1205A Recommendation as to minimum period of detention for person convicted of murder.
.....

F1206 Detention of children convicted on indictment.
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F1206A
.....

F1207 Detention of young offenders.
.....

~~**F1208**~~
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F1212
.....

[F1212A Supervised release orders.

(1) Where a person is convicted of an offence and is sentenced to imprisonment for a term of not less than twelve months but less than four years, the court on passing sentence may, if it considers that it is necessary to do so to protect the public from serious harm from the offender on his release, make such order as is mentioned in subsection (2) below.

[^{F16}(1A) A court shall, before making an order under subsection (1) above, consider a report by a relevant officer of a local authority about the offender and his circumstances and, if the court thinks it necessary, hear that officer.]

(2) The order referred to in subsection (1) above (to be known as a “supervised release order”) is that the person, during a relevant period—

- (a) be under the supervision either of a relevant officer of a local authority or of a probation officer appointed for or assigned to a petty sessions area (such local

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authority or the justices for such area to be designated under section 14(4) or 15(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993);

- [^{F17}(b) comply with—
- (i) such requirements as may be imposed by the court in the order;] and
 - (ii) such requirements as that officer may reasonably specify, [^{F18}; and
- (c) comply with the standard requirements imposed by virtue of subsection (3) (a)(i) below]

for the purpose of securing the good conduct of the person or preventing, or lessening the possibility of, his committing a further offence (whether or not an offence of the kind for which he was sentenced).

- (3) A supervised release order—

- [^{F19}(a) shall—
- (i) without prejudice to subsection (2)(b) above, contain such requirements (in this section referred to as the “standard requirements”); and
 - (ii) be as nearly as possible in such form, as may be prescribed by Act of Adjournal;]
- (b) for the purposes of any appeal or review constitutes part of the sentence of the person in respect of whom the order is made; and
- (c) shall have no effect during any period in which the person is subject to a licence under Part I of the said Act of 1993.

- (4) Before making a supervised release order as respects a person the court shall explain to him, in as straightforward a way as is practicable, the effect of the order and the possible consequences for him of any breach of it.

- (5) The clerk of the court by which a supervised release order is made in respect of a person shall—

- (a) forthwith send a copy of the order to the person and to the Secretary of State; and
- (b) within seven days after the date on which the order is made, send to the Secretary of State such documents and information relating to the case and to the person as are likely to be of assistance to a supervising officer.

- (6) In this section—

“relevant officer” has the same meaning as in Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“relevant period” means such period as may be specified in the supervised release order, being a period—

- (a) not exceeding twelve months after the date of the person’s release; and
- (b) no part of which is later than the date by which the entire term of imprisonment specified in his sentence has elapsed; and

“supervising officer” means, where an authority has or justices have been designated as is mentioned in subsection (2)(a) above for the purposes of the order, any relevant officer or, as the case may be, probation officer who is for the time being supervising for those purposes the person released.

- ^{F20}[(7) The foregoing provisions of this section apply to a person sentenced under section 207 or 415 of this Act as the provisions apply to a person sentenced to a period of imprisonment.]]

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Textual Amendments

- F16** S. 212A(1A) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 36; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F17** S. 212A(2)(b)(i) substituted (S.) (3.2.1995) for s. 212A(b)(i) and the word “and” immediately preceding it by 1994 c. 33, s. 132(a)(i); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F18** S. 212A(2)(c) and the word “and” immediately preceding it added (S.) (3.2.1995) by 1994 c. 33, s. 132(a)(ii); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F19** S. 212A(3)(a) substituted (S.) (3.2.1995) by 1994 c. 33, s. 132(b); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F20** S. 212A(7) added (27.7.1993) by 1993 c. 36, s. 69

F1 213

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F1 214

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F1 215 **Legal custody.**

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Miscellaneous provisions as to conviction, sentence, etc.

F1 216 **Art and part guilt of statutory offence.**

.....

F1 217 **Form of sentence.**

.....

F1 217A **Sentence following guilty plea.**

.....

F1 218 **Consideration of time spent in custody.**

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F1 219 **Deferred sentence.**

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F1 220 **Capital sentence not competent under this Act.**

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F1221 No penal servitude or hard labour.
.....

F1222 No fees exigible.
.....

F1223
.....

F1223A Disqualification in Scotland where vehicle used to commit offence.
.....

F1224 Warrant of search for forfeited articles.
.....

F1225
.....

F1226
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F1227
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F1227A Correction of entries.
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APPEAL

Procedure prior to hearing

F1228 Right of appeal.
.....

F1228A Appeal by Lord Advocate against sentence in solemn proceedings.
.....

Status: This version of this Act contains provisions that are prospective.

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F1229

F1230 Bill of suspension not competent.
.....

F1230A Leave to appeal.
.....

F1231 Intimation of intention to appeal.
.....

F1232

F1233 Note of appeal.
.....

F1234 Presentation of appeal in writing.
.....

F1235 Applications may be made orally or in writing.
.....

F1236 Proceedings in sheriff court to be furnished.
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F1236A Judge’s report.
.....

F1236B Computation of periods.
.....

F1236C

F1237

Status: This version of this Act contains provisions that are prospective.

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^{F1}238 Admission of appellant to bail.
.....

^{F1}239 Clerk to give notice of date of hearing.
.....

^{F1}240 Appellant may be present at hearing.
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^{F1}241 Notice to authorities, etc., of date of hearing.
.....

^{F1}242 Notice to Prison Commissioners of attendance of appellant at hearing.
.....

^{F1}242A Special provision where appellant is Lord Advocate.
.....

^{F1}243 Warders to attend court.
.....

^{F1}244 Abandonment of appeal.
.....

^{F1} Procedure at hearing

^{F1}245 Quorum and sitting of High Court.
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^{F1}246
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^{F1}247 Powers which may be exercised by a single judge.
.....

^{F1}248 Single judge may act wherever convenient.
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Status: This version of this Act contains provisions that are prospective.

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F1249 Interlocutory proceedings.
.....

F1250 Representation before single judge.
.....

F1251 Appeal against refusal of application.
.....

F1252 Powers of High Court.
.....

F1253 Evidence in court or on commission.
.....

F1254 Disposal of appeals.
.....

F1254A Sentencing guidelines.
.....

F1254B Convictions not to be quashed on certain grounds.
.....

F1255 Supplementary provisions where High Court authorises new prosecution.
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F1256
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F1257 Failure to appear at hearing.
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F1258 Appellant may be sentenced in absence.
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F1259
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Status: This version of this Act contains provisions that are prospective.

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^{F1}260 Notice of decision of court on application.

.....

^{F1}261 Notice of determination of appeal.

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^{F1}262 Finality of proceedings.

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^{F1}Further provisions as to appeals

^{F1}263 Prerogative of mercy.

.....

^{F1}263A Lord Advocate’s reference.

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^{F1}264 Disqualification, forfeiture, etc.

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^{F1}265 Fines and caution.

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^{F1}266 Expenses.

.....

^{F1}267 No fees exigible.

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^{F1}268 Reckoning of time spent pending appeal.

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^{F1}269 Extract convictions.

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^{F1}270 Custody of trial documents, etc.

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F1271 Clerk of Justiciary to furnish forms, etc.

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F1272

F1273

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F1274 Record of trial.

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F1275 Transcripts of record and documentary productions.

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F1276

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F1277 Non-compliance with certain provisions may be waived.

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F1278 Forms of procedure may be varied.

.....

F1279 Interpretation of sections 228 to 278 of this Act.

.....

F1280 Appeals against hospital orders, etc.

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F1280A Prosecution appeal by bill of advocacy.

.....

Miscellaneous

F1281 High Court proceedings final.

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F1 282

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F1 282A Right of audience of solicitor before the High Court.

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F1 282B Further provision as to rights of audience.

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PART II

SUMMARY PROCEDURE

F1 Jurisdiction

F1 283 Application of Part II of this Act.

.....

F1 283A Offences which are to become triable only summarily.

.....

F1 284 Jurisdiction of inferior courts.

.....

F1 285 Certain crimes not to be tried in inferior courts.

.....

F1 286 Remit to higher court or other jurisdiction.

.....

F1 287 Boundaries of jurisdiction.

.....

F1 288 Jurisdiction of sheriff.

.....

F1 289 Summary powers of sheriff.

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F1 289A Amendments relating to penalties (and mode of trial) for offences made triable only summarily.

.....

F1 289B Penalties on summary conviction for offences triable either summarily or on indictment.

.....

F1 289C Increase of fines for certain summary offences.

.....

F1 289D Power to alter sums specified in certain provisions.

.....

F1 289E Penalties for first and subsequent convictions of summary offences to be the same.

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Modifications etc. (not altering text)
C1 S. 289E amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 56(2), [Sch. 8 para. 16](#)

F1 289F Increase of fines for certain summary offences.

.....

F1 289G The standard scale: amendment of enactments.

.....

F1 289G A Statutory maximum as penalty in respect of summary conviction for offences in subordinate instruments.

.....

F1 289G B Exceptionally high maximum fines.

.....

F1 289G C Fines under secondary subordinate instruments—Scotland.

.....

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^{F1}289G **Fines on summary conviction for offences under subordinate instruments—
conversion to references to levels on scale.**

.....

^{F1}289H **Schedule 7D.**

.....

^{F1}290 **When six months’ imprisonment competent.**

.....

^{F1}291 **Trial of certain offences.**

.....

^{F1}292 **Theft outside Scotland.**

.....

^{F1}293 **Instructions by Lord Advocate as to reporting offences.**

.....

^{F1} Procedure prior to trial

^{F1}294 **Power of constable to take offenders into custody.**

.....

^{F1}295 **Interim liberation by officer in charge of police station.**

.....

^{F1}296 **Police liberation or detention of children arrested.**

.....

^{F1}297 **Committal of children to custody in place of safety.**

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^{F1}298 **All offences to be bailable.**

.....

^{F1}299 **Application for review of court’s decision on bail and caution.**

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F1299A Application by prosecutor for review of court’s decision to grant bail.

.....

F1300 Appeal in respect of bail.

.....

F1301, 302.

.....

F1303 Caution and bail.

.....

F1304 Power to order parents to give security for child’s good behaviour.

.....

F1305 Right of accused to have access to solicitor.

.....

F1306 Separation of children from adults at courts, etc.

.....

F1307 Attendance at court of parent of child charged with an offence, etc.

.....

F1308 Notice to local authority of charge against a child.

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F1309 Forms of procedure.

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F1310 Incidental applications.

.....

F1310A Abolition of private summary prosecutions.

.....

F1311 Complaint.

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^{F1}312 Form of the charge in complaint.

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^{F1}313

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^{F1}314 Orders of court on complaint.

.....

^{F1}315 Citation.

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^{F1}316 Manner of citation.

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^{F1}317 Citation of probationer.

.....

^{F1}318 Citation of offender.

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^{F1}319 Citation by post.

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^{F1}320 Apprehension of witness.

.....

^{F1}321 Warrants of apprehension and search.

.....

^{F1}322 Warrants for arrest of escaped prisoners and mental patients.

.....

^{F1}323 Warrant to search for or remove a child.

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324 Backing of certain warrants from the Isle of Man.

- (1) A warrant issued in the Isle of Man for the arrest of a person charged with an offence may, after it has been endorsed by a justice in Scotland, be executed there by the person bringing that warrant, by any person to whom the warrant was originally directed or by any officer of law of the sheriff court district where the warrant has been endorsed as aforesaid in like manner as any such warrant issued in Scotland.
- (2) In this section “endorsed” means endorsed in the like manner as a process to which section 4 of the Summary Jurisdiction (Process) Act 1881 applies.

^{F1}325

^{F1}326 **Service of complaints, etc.**
.....

^{F1}327 **Warrants granted by justice may be executed throughout Scotland.**
.....

327 Sheriff’s warrant may be executed out of district.
.....

^{F1}328 **Adjournment for inquiry, etc.**
.....

^{F1}329 **Remand and committal of persons under 21.**
.....

^{F1}330 **Power of court to commit to hospital a person suffering from mental disorder.**
.....

^{F1}331 **Statutory offences time-limit.**
.....

^{F1}331A **Prevention of delay in trials.**
.....

^{F1}331B **Death, illness or absence of judge.**
.....

Status: This version of this Act contains provisions that are prospective.

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^{F1}332 Power to recover penalties.
.....

^{F1}333 Offences by companies, etc.
.....

^{F1}333A Adjournment for inquiry at first calling.
.....

^{F1}333B Agreement of evidence.
.....

^{F1}Trial Procedure

^{F1}334 Procedure at first diet, etc.
.....

^{F1}335 Amendment of complaint.
.....

^{F1}336
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^{F1}337 Plea of not guilty.
.....

^{F1}337A Intermediate diet.
.....

^{F1}337B Removal of accused from court.
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^{F1}338 Failure of accused to appear.
.....

^{F1}338A Desertion of trial diet.
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Status: This version of this Act contains provisions that are prospective.

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F1339 Alibi.

.....

F1340 Examination of witness.

.....

F1341 Witnesses not to be excluded by reason of conviction, interest, etc.

.....

F1342 Witnesses admissible notwithstanding relationship to parties.

.....

F1342A Power to permit witness to be in court during trial.

.....

F1343 Presence in court not to disqualify witnesses in certain cases.

.....

F1344 Punishment of witness for contempt.

.....

F1345

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F1345A No case to answer.

.....

F1346 Accused and spouse competent witnesses for defence.

.....

F1346A Evidence in relation to sexual offences.

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F1346ZA Evidence of criminal record and character of accused.

.....

F1346B Exceptions to prohibition.

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Status: This version of this Act contains provisions that are prospective.

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F1347 Evidence of the accused.

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F1348 Spouse to be competent witness.

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F1349 Witness may be examined etc., as to having previously made a different statement.

.....

F1349A Recall of witnesses.

.....

F1350 Additional evidence.

.....

F1350A Evidence in replication.

.....

F1351 Defence to speak last.

.....

F1352 Record of proceedings at examination to be received in evidence without being sworn to by witnesses.

.....

F1353 Proof of official documents.

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F1354 Admissions by parties.

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F1355 Judges equally divided.

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F1356 Previous convictions.

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Status: This version of this Act contains provisions that are prospective.

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^{F1}357 Laying of previous convictions before court.

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^{F1}358 Proof of previous convictions by fingerprints.

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^{F1}359 Record.

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^{F1}360

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Interruption of proceedings

^{F1}360A Interruption of summary proceedings for verdict in earlier trial.

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Textual Amendments

F1 Act repealed (S.) (1.4.1996) by [Criminal Procedure \(Consequential Provisions\) \(Scotland\) Act 1995](#) (c. 40), s. 6(1), [Sch. 5](#) (with ss. 4, 6(2), [Sch. 3](#) paras. 3, 16, [Sch. 6](#))

^{F1}Procedure at trial involving children

^{F1}361 Child under 14 not to be in court during trial of another person.

.....

^{F1}362 Power to clear court while child is giving evidence in certain cases.

.....

^{F1}363 Power to proceed with case in absence of person under 17.

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^{F1}364 Power of court, in respect of certain offences against a child, to refer child to Principal Reporter.

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^{F1}365

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Status: This version of this Act contains provisions that are prospective.

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^{F1}366 Procedure when sheriff sits summarily in respect of offence by child.

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^{F1}367 Powers of sheriff sitting summarily.

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^{F1}368 Presumption and determination of age of child.

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^{F1}369 Age of criminal responsibility.

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[^{F1}370 Child charged jointly with person who is not a child.

When a child has been charged with an offence jointly with a person who is not a child the provisions of sections 366 [^{F21}and 367] of this Act shall not apply to summary proceedings before the sheriff in respect of the charges.]

Textual Amendments

F21 Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), [Sch. 7 para. 58](#)

^{F1}371 Welfare of child.

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^{F1}372 Reference and remit of children’s cases by courts to children’s hearings.

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^{F1}373 Reference and remit of cases of certain young persons by courts to children’s hearings.

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[^{F1}[^{F22}373] Restrictions on report of proceedings involving person under 16.

(1) No newspaper report of any proceedings in a court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any person under the age of 16 years concerned in the proceedings, either—

- (a) as being a person against or in respect of whom the proceedings are taken; or
- (b) as being a witness therein;

nor shall any picture which is, or includes, a picture of a person under the age of 16 years so concerned in the proceedings be published in any newspaper in a context relevant to the proceedings:

Provided that, in any case—

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- (i) where the person is concerned in the proceedings as a witness only and no one against whom the proceedings are taken is under the age of 16 years, the foregoing provisions of this subsection shall not apply unless the court so directs;
 - (ii) the court may at any stage of the proceedings if satisfied that it is in the public interest so to do, direct that the requirements of this section (including such requirements as applied by a direction under paragraph (i) above) shall be dispensed with to such extent as the court may specify;
 - (iii) the Secretary of State may, after completion of the proceedings, if so satisfied by order dispense with the said requirements to such extent as may be specified in the order.
- (2) This section shall, with the necessary modifications, apply in relation to sound and television [^{F23}programmes included in a programme service (within the meaning of the Broadcasting Act 1990)] as it applies in relation to newspapers.
- (3) A person who publishes matter in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F24}level 4 on the standard scale.]
- (4) In this section, references to a court shall not include a court in England, Wales or Northern Ireland.]]

Textual Amendments

F22 S. 374 substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 22, **Sch. 6 para. 2**

F23 Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 203(1), **Sch. 20 para. 21**

F24 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. **289G** and (N.I.) 1984/703, (N.I. 13), art. 5

^{F1}Procedure at Trial of Persons suffering from Mental Disorder

^{F1}375 Insanity in bar of trial.

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^{F1}375ZA Examination of facts.

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^{F1}375ZB Examination of facts: supplementary provisions.

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^{F1}375ZC Disposal of case where accused found to be insane.

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^{F1}375ZD Appeal by accused in case involving insanity.

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^{F1}375ZE Appeal by prosecutor in case involving insanity.

.....

^{F1}375A Interim hospital orders.

.....

^{F1}376 Power of court to order hospital admission or guardianship.

.....

^{F1}377 Requirements as to medical evidence.

.....

^{F1}378 Supplementary provisions as to hospital orders.

.....

^{F1}379 Power of court to restrict discharge from hospital.

.....

^{F1} CONVICTION AND SENTENCE

^{F1} Adjournment and remand

^{F1}380 Power of court to adjourn case before sentence.

.....

^{F1}380A Offence committed by person under supervision etc.: provision of local authority report.

.....

^{F1}381 Remand for inquiry into physical or mental condition.

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Admonition and discharge

^{F1}382 Admonition.

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^{F1}383 Absolute discharge.

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^{F1} Probation

^{F1}384 Probation.

.....

^{F1}385 Probation orders requiring treatment for mental condition.

.....

^{F1}386 Discharge and amendment of probation orders.

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^{F1}387 Failure to comply with requirement of probation order.

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^{F1}388 Commission of further offence.

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^{F1}389 Probation orders relating to persons residing in England.

(1) Where the court by which a probation order is made under section 384 of this Act [^{F25}(not being a probation order including a requirement [^{F26}which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule)]) is satisfied that the offender has attained the age of [^{F27}16] years and resides or will reside in England, subsection (2) of the said section shall not apply to the order, but the order shall contain a requirement that he be under the supervision of a probation officer appointed for or assigned to the petty sessions area in which the offender resides or will reside; ^{F28} that area shall be named in the order [^{F29}; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.].

(2) Where a probation order has been made under section 384 of this Act and the court in Scotland by which the order was made or the appropriate court is satisfied

- ^{F30}[(a) that the probationer has attained the age of 16 years;
(b) that he proposes to reside, or is residing, in England; and
(c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside]

, the power of that court to amend the order under Schedule 5 to this Act shall include power to insert the provisions required by subsection (1) of this section [^{F31}or to vary

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any requirement for performance of unpaid work so that such hours as remain to be worked do not exceed one hundred]; and the court may so amend the order without summoning the probationer and without his consent.

- (3) A probation order made or amended by virtue of this section may, notwithstanding section 385(8) of this Act, include a requirement that the probationer shall submit to treatment for his mental condition, and—
- (a) subsections (1), (3) and (7) of the said section 385 and [^{F32}paragraph 5(3) of Schedule 1A to] the ^{M3}Powers of Criminal Courts Act 1973 (all of which regulate the making of probation orders which include any such requirement) shall apply to the making of an order which includes any such requirement by virtue of this subsection as they apply to the making of an order which includes any such requirement by virtue of section 385 of this Act and [^{F32}paragraph 5 of Schedule 1A to] the said Act of 1973 respectively; and
 - (b) [^{F33}sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to] the said Act of 1973 (functions of supervising officer and medical practitioner where such a requirement has been imposed) shall apply in relation to a probationer who is undergoing treatment in England in pursuance of a requirement imposed by virtue of this subsection as they apply in relation to a probationer undergoing such treatment in pursuance of a requirement imposed by virtue of that section.
- (4) Sections 386(1) and 387(1) of this Act shall not apply to any order made or amended under this section; but subject as hereinafter provided the provisions of [^{F34}Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
- (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
 - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:

Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.]

- (5) If it appears on information to a justice acting for the petty sessions area [^{F35}named in a probation order made or amended under this section that the person to whom the order relates] has been convicted by a court in any part of Great Britain of an offence committed during the period specified in the order, he may issue a summons requiring that person to appear, at the place and time specified therein, before the court in Scotland by which the probation order was made or, if the information is in writing and on oath, may issue a warrant for his arrest, directing that person to be brought before the last-mentioned court.
- (6) If a warrant for the arrest of a probationer issued under section 388 of this Act by a court is executed in England, and the probationer cannot forthwith be brought before that court, the warrant shall have effect as if it directed him to be brought before a magistrates' court for the place where he is arrested; and the magistrates' court shall commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court in Scotland.

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- (7) The court by which a probation order is made or amended in accordance with the provisions of this section shall send three copies of the order to the clerk to the justices for the petty sessions area named therein, together with such documents and information relating to the case as it considers likely to be of assistance to the court acting for that petty sessions area.
- (8) Where a probation order which is amended under subsection (2) of this section is an order to which the provisions of this Act apply by virtue of section 10 of the ^{M3}Powers of Criminal Courts Act 1973 (which relates to probation orders under that Act relating to persons residing in Scotland) then, notwithstanding anything in that section or this section, the order shall, as from the date of the amendment, have effect in all respects as if it were an order made under section 2 of that Act in the case of a person residing in England.]

Textual Amendments

- F25** Words inserted by Community Service by **Offenders (Scotland) Act 1978 (c. 49, SIF 39:1), Sch. 2 para. 3**
- F26** Words in s. 389(1) substituted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(a)(i) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F27** Word in s. 389(1) substituted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(a)(ii) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F28** Word in s. 389(1) ceased to have effect (1.10.1992) by virtue of **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(a)(iii) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F29** Words at the end of s. 389(1) added (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(a)(iv) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F30** S. 389(2)(a)(b)(c) substituted (1.10.1992) for certain words by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(b)(i) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F31** Words in s. 389(2) inserted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(b)(ii) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F32** Words in s. 389(3) substituted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(c)(i) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F33** Words in s. 389(3) substituted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(c)(ii) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F34** S. 389(4)(a)(b) and words substituted (1.10.1992) for certain words by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(d) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**
- F35** Words in s. 389(5) substituted (1.10.1992) by **Criminal Justice Act 1991 (c. 53), s. 16, Sch. 3, Pt. II, para. 7(3)(e) (with s. 28); S.I. 1992/333, art. 2(2), Sch. 2.**

Marginal Citations

- M3** 1973 c. 62(39:1).

^{F1}390

^{F1}391

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^{F1}392 Effects of probation and absolute discharge.

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^{F1}393 Probation reports.

.....

^{F1} Penalties for Statutory Offences

^{F1}394 Power to mitigate penalties.

.....

Fines

^{F1}395 Provisions as to fines.

.....

^{F1}395A Power to remit fines.

.....

^{F1}396 Time for payment.

.....

^{F1}397 Application for further time for payment of fine.

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^{F1}398 Restriction on imprisonment after fine or caution.

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^{F1}399 Payment by instalments.

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^{F1}400 Supervision pending payment of fine.

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^{F1}401 Supplementary provisions as to payment of fine.

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^{F1}402 Fines, etc., may be enforced in other district.

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^{F1}403 Transfer of fine orders.

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^{F1}404 Action of clerk of court on transfer of fine orders.

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^{F1}405

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^{F1}406 Substitution of custody for imprisonment where a child defaults on fine.

.....

^{F1}407 Period of imprisonment for non-payment of fine.

.....

^{F1}408 Discharge from imprisonment to be specified.

.....

^{F1}409 Payment of fine in part by prisoner.

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^{F1}410

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^{F1}411 Recovery by civil diligence.

.....

^{F1}412 Payment of fines to be made to clerk of court.

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^{F1}Supervised attendance orders

^{F1}412A Supervised attendance orders in place of fines for 16 and 17 year olds.

.....

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^{F1}**412B Supervised attendance orders where court allows further time to pay fine.**

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^{F1} Residential and Borstal Training

^{F1}^{F36}**41B Detention of children.**

- (1) Where a child appears before the sheriff in summary proceedings and pleads guilty to, or is found guilty of, an offence to which this section applies, the sheriff may order that he be detained in residential care by the appropriate local authority [^{F37} for such period not exceeding one year as may be specified in the order]. . . in such place (in any part of the United Kingdom) as the local authority may, from time to time, consider appropriate ^{F38} . . .
- (2) This section applies to any offence in respect of which it is competent to impose imprisonment on a person of the age of 21 years or more.
- (3) In this section—
 - “the appropriate local authority” means—
 - (a) where the child usually resides in Scotland, the regional or islands council for the area in which he usually resides;
 - (b) in any other case, the regional or islands council for the area in which the offence was committed;
 - “care” shall be construed in accordance with section 32(3) of the 1968 Act, and the provisions of that Act specified in section 44(5) of that Act shall apply in respect of a child who is detained in residential care in pursuance of this section as they apply in respect of a child who is subject to a supervision requirement;
 - “the 1968 Act” means the ^{M4}Social Work (Scotland) Act 1968.
- (4) Where a child in respect of whom an order is made under this section is also subject to a supervision requirement within the meaning of the 1968 Act, subject to subsection (6) below, the supervision requirement shall be of no effect during any period for which he is required to be detained under the order.
- (5) The Secretary of State may, by regulations made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make such provision as he considers necessary as regards the detention in secure accommodation (within the meaning of the 1968 Act) of children in respect of whom orders have been made under this section.

^{F39} Where a child is detained in residential care in pursuance of an order under—

- (6) (a) subsection (1) above, he shall be released from such detention not later than the date by which half the period specified in the order has (following commencement of the detention) elapsed but, without prejudice to subsection (6A) below, until the entire such period has so elapsed may be required by the local authority to submit to supervision in accordance with such conditions as they consider appropriate;
- (b) subsection (1) above or (6B) below, the local authority may at any time review his case and may, in consequence of such review and after having regard to the best interests of the child and the need to protect members of the public, release the child—

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- (i) for such period and on such conditions as the local authority consider appropriate; or
 - (ii) unconditionally.
- (6A) Where a child released under paragraph (a) or (b)(ii) of subsection (6) above is subject to a supervision requirement within the meaning of the 1968 Act, the effect of that requirement shall commence, or as the case may be resume, upon such release.
- (6B) If, while released under paragraph (a) or (b) of subsection (6) above (and before the date on which the entire period mentioned in the said paragraph (a) has, following commencement of the detention, elapsed), a child commits an offence to which this section applies and (whether before or after that date) pleads guilty to or is found guilty of it a court may, instead of or in addition to making any other order in respect of that plea or finding, order that he be returned to the residential care of the authority which released him and that his detention in their care shall continue for the whole or any part of the period which—
- (a) begins with the date of the order for his return; and
 - (b) is equal in length to the period between the date on which the new offence was committed and the date on which that entire period elapses.
- (6C) An order under subsection (6B) above for return to residential care—
- (a) shall be taken to be an order for detention in residential care for the purposes of this Act and of any appeal; and
 - (b) shall, as the court making that order may direct, either be for a period of residential care before and to be followed by, or to be concurrent with, any period of residential care to be imposed in respect of the new offence (being in either case disregarded in determining the appropriate length of the period so imposed).]

(7) Where a local authority consider it appropriate that a child in respect of whom an order has been made under subsection (1) [^{F40}(or (6B))]above should be detained in a place in any part of the United Kingdom outside Scotland, the order shall be a like authority as in Scotland to the person in charge of the place to restrict the child's liberty to such an extent as that person may consider appropriate having regard to the terms of the order.]]

Textual Amendments

- F36** S. 413 substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a)**, 59(1)
- F37** Words in s. 413(1) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117](#), **Sch. 6 Pt. I para. 141(a)**; S.I. 1996/517, arts. 3-6, **Sch.**
- F38** Words in s. 413(1) repealed (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117](#), **Sch. 6 Pt. I para. 141(b)**, **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3-6, **Sch.**
- F39** S. 413(6)(6A)-(6C) substituted (1.10.1993) for s. 413(6) by [1993 c. 9, ss. 5, 6, 8, 10](#) (with [ss. 5\(1\), 6\(1\), 10, 27, 47\(2\)](#)), **Sch. 6 paras. 1, 2, 6, 7**; S.I. 1993/2050, **art. 3(4)**
- F40** Words in s. 413(7) inserted (1.10.1993) by [1993 c. 9, s. 47\(1\)](#), **Sch. 5 para. 1(32)(b)** (with [s. 47\(2\)](#)), **Sch. 6 paras. 1, 2**; S.I. 1993/2050, **arts. 3(4), 4(1)(c)**

Marginal Citations

- M4** [1968 c.49 \(81:3\)](#).

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^{F1}414

^{F1}415 Detention of young offenders.
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^{F1}416

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^{F1}418

^{F1}419,
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^{F1}421

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^{F1}423

^{F1}424 Detention in precincts of court.
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^{F1}425 No imprisonment for less than five days.
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^{F1}426 Legal custody.
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FI Miscellaneous provisions as to conviction, sentence, etc.

FI 427 Conviction of part only of charge.

.....

FI 428 Art and part guilt of statutory offence.

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PROSPECTIVE

FI 429 “Conviction” and “sentence” not to be used in relation to a child.

.....

FI 430 Forms of finding and sentence.

.....

FI 430A Sentence following guilty plea.

.....

FI 431 Consideration of time spent in custody.

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FI 432 Deferred sentence.

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FI 433 Sentence in open court.

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FI 434 Further provision as to sentence.

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FI 435

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FI 436

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^{F1}436A Disqualification in Scotland where vehicle used to commit offence.

.....

^{F1}437 Warrant of search for forfeited articles.

.....

^{F1}438 Register of children found guilty of offences.

.....

^{F1}439 Correction of entries.

.....

^{F1}439A Amendment of records of conviction and sentence in summary proceedings.

.....

^{F1}440 Extract sufficient warrant for imprisonment.

.....

^{F1}441 Provision for court comprising more than one judge.

.....

^{F1} Review

^{F1}442 Right of appeal.

.....

^{F1}442ZA Leave to appeal against conviction etc.

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^{F1}442A Method of appeal against conviction or conviction and sentence.

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^{F1}442B Method of appeal against sentence alone.

.....

^{F1}443 Appeals against hospital orders, etc.

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^{F1}443A Suspension of disqualification, forfeiture, etc.

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^{F1}444 Manner and time of appeal.

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^{F1}445

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446 Procedure where appellant in custody.

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^{F1}447 Draft stated case to be prepared.

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^{F1}448 Adjustment and signature of case.

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^{F1}449 Abandonment of appeal.

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^{F1}450 Record of procedure in appeal.

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^{F1}451 Computation of time.

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^{F1}451A Quorum of High Court in relation to appeals.

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^{F1}452 Hearing of appeal.

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^{F1}452A Disposal of stated case appeal.

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^{F1}452B Supplementary provisions where High Court authorises new prosecution.

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^{F1}453 Prosecutor’s consent to or application for setting aside of conviction.

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^{F1}453A Appeal by bill of suspension or advocation on ground of miscarriage of justice.

.....

^{F1}453AA Leave to appeal against sentence.

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^{F1}453B Appeals against sentence only.

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^{F1}453C Disposal of appeal by note of appeal.

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^{F1}453D Disposal of appeal where appellant insane.

.....

^{F1}453E Failure of appellant who has been granted bail to appear personally.

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^{F1}454 Convictions not to be quashed on certain grounds.

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^{F1}455 Other modes of appeal.

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^{F1}455A Sentencing guidelines.

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^{F1} Miscellaneous

^{F1}456 Actions of damages in respect of proceedings under this Part of this Act.

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^{F1}457

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^{F1}PART III

GENERAL

^{F1}457ZA Acts of Adjournal.

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^{F1}457A Mode of trial of certain offences.

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^{F1}458 Construction of enactments referring to sentence of detention.

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^{F1}459 Construction of enactments referring to detention.

.....

^{F1}460 Transitional provisions and savings.

.....

^{F1}461 Consequential amendments, repeals and revocations.

.....

462 Interpretation.

(1) In this Act, except where the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them—

“appropriate court” means a court named as such in pursuance of section 183(2) or 384(2) of this Act or of Schedule 5 to this Act in a probation order or in an amendment of any such order made on a change of residence of a probationer;

[^{F41}“bail” means release of an accused or an appellant on conditions, or conditions imposed on bail, as the context requires;]

“Borstal training” and “detention centre” have the like meanings as in the [^{F42}Prisons (Scotland) Act 1989];

“charged” means, in respect of proceedings under Part I of this Act, charged on petition or indictment and, in respect of proceedings under Part II of this Act, charged on complaint;

[^{F43}“chartered psychologist” means a person for the time being listed in the British Psychological Society’s Register of Chartered Psychologists;]

“child”, except in sections 18, 62, 171(3), 294, 313 and 368(3) of this Act and Schedule 1 to this Act, has the meaning assigned to that expression [^{F44}for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995];

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Changes to legislation: Criminal Procedure (Scotland) Act 1975 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“children’s hearing” has the meaning assigned to it [^{F45}in Part II of the Children (Scotland) Act 1995];

“Clerk of Justiciary” shall include assistant clerk of justiciary and shall extend and apply to any person duly authorised to execute the duties of Clerk of Justiciary or assistant clerk of justiciary;

“commit for trial” means commit until liberation in due course of law;

“complaint” includes a copy of the complaint laid before the court;

“convicted” (except in relation to previous convictions), in respect of proceedings under Part I of this Act, means convicted on indictment, and, in respect of proceedings under Part II of this Act, means summarily convicted; and “conviction” shall be construed accordingly;

“the court”, in relation to solemn procedure, means a court of solemn criminal jurisdiction and includes the High Court and the sheriff court and, in relation to summary procedure, means a court of summary criminal jurisdiction;

“court of summary jurisdiction” means a court of summary criminal jurisdiction;

“court of summary criminal jurisdiction” shall include the sheriff court and district court;

“crime” means all crime at common law, as well as all crime under any existing or future Acts of Parliament, and includes high crime and offence, felony, crime and offence, offence and misdemeanour, and includes attempt;

[^{F46}“diet” includes any continuation of a diet;]

“enactment” includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

“England” includes Wales;

[^{F47}“examination of facts” means an examination of facts held under section 174ZA or 375ZA of this Act;]

“existing” means existing immediately before the commencement of this Act;

“extract conviction” and “extract of previous conviction” include certified copy conviction, certificate of conviction, and any other document under the hand of the proper officer in use to be issued from any court of justice of the United Kingdom as evidence of a conviction;

“fine” includes [^{F48}(a) any pecuniary penalty [^{F49}(but not a pecuniary forfeiture or pecuniary compensation)], and (b)] an instalment of a fine;

[^{F50}“governor” means, in relation to a contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994, the director of the prison;]

“guardian”, in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child;

“guardianship order” has the meaning assigned to it by section 175(5) or 376(8) of this Act;

“High Court” and “Court of Justiciary” shall mean “High Court of Justiciary” and shall include any court held by the Lords Commissioners of Justiciary, or any of them;

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“indictment” shall include any indictment whether in the sheriff court or the High Court framed in the form set out in Schedule A to the ^{M5}Criminal Procedure (Scotland) Act 1887 or in an Act of Adjournal under this Act or as nearly as may be in such form;

“hospital” means—

- (a) any hospital vested in the Secretary of State [^{F51}or in a National Health Service trust] under the ^{M6}National Health Service (Scotland) Act [^{F52}1978],
- (b) any private hospital registered under [^{F53}Pt.IV of the ^{M7}Mental Health (Scotland) Act 1984]; and
- (c) any State hospital;

“hospital order” has the meaning assigned to it by section 175(3) or 376(6) of this Act;

“impose detention” or “impose imprisonment” means pass a sentence of detention or imprisonment, as the case may be, or make an order for committal in default of payment of any sum of money or for [^{F54}contempt of court];

“judge”, in relation to solemn procedure, means a judge of a court of solemn criminal jurisdiction and, in relation to summary procedure, means any sheriff or any judge of a district court;

“justice” includes the sheriff and any stipendiary magistrate or justice of the peace;

“justice of the peace” means any of Her Majesty’s justices of the peace for any commission area in Scotland acting within such commission area;

“legalised police cells” has the like meaning as in the [^{F42}Prisons (Scotland) Act 1989];

“local authority” has the meaning assigned to it by section 1(2) of the ^{M8}Social Work (Scotland) Act 1968;

“Lord Commissioner of Justiciary” shall include Lord Justice General and Lord Justice Clerk;

“medical practitioner” means a registered medical practitioner within the meaning of the ^{M9}Medical Act 1956;

“offence” means any act, attempt or omission punishable by law;

[^{F55}“officer of law” includes, in relation to the service and execution of any warrant, citation, petition, indictment, complaint, list of witnesses, order, notice, or other proceeding or document—

- (i) any macer, messenger-at-arms, sheriff officer or other person having authority to execute a warrant of the court;
- (ii) any constable within the meaning of the ^{M10}Police (Scotland) Act 1967;
- (iia) [^{F56}any person who is employed under section 9 of the Police (Scotland) Act 1967 for the assistance of the constables of a police force and who is authorised by the chief constable of that police force in relation to service and execution as mentioned above;]
- (iii) where the person upon whom service or execution is effected is in prison at the time of service on him, any prison officer; and
- (iv) any person (or class of persons) authorised in that regard for the time being by the Lord Advocate or by the Secretary of State;]

“officer of police” includes a chief constable, deputy chief constable, constable and criminal officer;

“order” means any order, byelaw, rule or regulation having statutory authority;

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F57

“patient” means a person suffering or appearing to be suffering from mental disorder;

“place of safety”, in relation to a person not being a child, means any police station, prison or remand centre, or any hospital the board of management of which are willing temporarily to receive him, and in relation to a child means a place of safety within the meaning of [F58Part II of the Children (Scotland) Act 1995];

“prison” does not include a naval, military or air force prison;

[F59“prison officer” and “officer of a prison” means, in relation to a contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994, a prisoner custody officer within the meaning of section 114(1) of that Act;]

[F60“probationer” means a person who is under supervision by virtue of a probation order or who was under such supervision at the time of the commission of any relevant offence or failure to comply with such order;]

“probation order” has the meaning assigned to it by section 183 or 384 of this Act;

“probation period” means the period for which a probationer is placed under supervision by a probation order;

“procurator fiscal” shall mean sheriff’s procurator fiscal, and shall include assistant procurator fiscal and procurator fiscal depute and shall extend and apply to any person duly authorised to execute the duties of such procurator fiscal;

“prosecutor”, in Part I of this Act, includes Crown counsel, procurator fiscal, any other person prosecuting in the public interest and any private prosecutor; and, in Part II of this Act, includes procurator fiscal, district prosecutor, depute district prosecutor, assistant district prosecutor, and any other person prosecuting in the public interest, F61 . . . and complainer and any person duly authorised to represent or act for any public prosecutor;

“remand” means an order adjourning the proceedings or continuing the case and giving direction as to detention in custody or liberation during the period of adjournment or continuation and references to remanding a person or remanding in custody or on bail shall be construed accordingly;

“remand centre” has the like meaning as in the [F42Prisons (Scotland) Act 1989];

[F62“reporter” means an officer appointed by a local authority under section 36 of the M11Social Work (Scotland) Act 1968;]

“residential establishment” [F63means an establishment within the meaning of that expression for the purposes of the Social Work (Scotland) Act 1968 or, as the case may be, of Part II of the Children (Scotland) Act 1995];

“responsible medical officer” has the meaning assigned to it by [F64section 59 of the M12Mental Health (Scotland) Act 1984];

[F65“restriction order” has the meaning assigned to it by section 178 or 379 of this Act;]

[F66“sentence”, whether of detention or of imprisonment, means a sentence passed in respect of a crime or offence and does not include an order for committal in default of payment of any sum of money or for contempt of court.]

“sheriff” shall include sheriff principal;

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Changes to legislation: *Criminal Procedure (Scotland) Act 1975 is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“sheriff clerk” shall include sheriff clerk depute, and shall extend and apply to any person duly authorised to execute the duties of sheriff clerk;

“sheriff court district” shall extend to the limits within which the sheriff has jurisdiction in criminal matters whether by statute or at common law;

“State hospital” has the meaning assigned to it in [^{F67}Part VIII of the ^{M13}Mental Health (Scotland) Act 1984];

“statute” shall mean any Act of Parliament, public general, local, or private, and any Provisional Order confirmed by Act of Parliament;

“supervision requirement” has the meaning assigned to it [^{F68}in Part II of the Children (Scotland) Act 1995];

“training school order” has the same meaning as in the ^{M14}Social Work (Scotland) Act 1968;

“witness” includes haver.

- (2) References in this Act to a court do not include references to a court-martial; and nothing in this Act shall be construed as affecting the punishment which may be awarded by a court-martial under the ^{M15}Naval Discipline Act 1957, the ^{M16}Army Act 1955 or the ^{M17}Air Force Act 1955 for a civil offence within the meaning of those Acts.
- (3) For the purpose of any provision of Part II of this Act referring to a court acting for any place, a court entitled to exercise jurisdiction in any place shall be deemed to be a court acting for that place.
- (4) For the purposes of this Act, except section 183(7) or 384(7) thereof, where a probation order has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.
- (5) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution.
- (6) Any reference in this Act to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of [^{F69}the United Kingdom] and to a previous sentence passed by any such court.
- (7) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment, including this Act, upon the imprisonment of offenders of his age.
- (8) Without prejudice to the provisions of section 171 or 368 of this Act, where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.
- (9) References in this Act to findings of guilty and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.

^{F70}(10)

Status: This version of this Act contains provisions that are prospective.

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- (11) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended, extended or applied by or under any other enactment, including this Act.]

Textual Amendments

- F41** Definition substituted by [Bail etc. \(Scotland\) Act 1980 \(c. 4, SIF 39:1\)](#), **Sch. 1 para. 14**
- F42** Words substituted by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), s. 45(1), **Sch. 2 para. 16**
- F43** Definition of “chartered psychologist” in s. 462(1) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) with [1995 c. 20, s. 39\(2\)](#); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F44** Words in the definition of “child” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(a)** (with s. 103(1))
- F45** Words in the definition of “children’s hearing” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(b)** (with s. 103(1))
- F46** Definition inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 76(a)**
- F47** Definition of “examination of facts” in s. 462(1) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117\(1\)](#), **Sch. 6 Pt. I para. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F48** Words inserted by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 11 para. 10**
- F49** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 15 para. 19**
- F50** Definition of “governor” in s. 462(1) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117\(1\)](#), **Sch. 6 Pt. I para. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F51** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 14**
- F52** Words substituted by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), **Sch. 16 para. 41**
- F53** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(1), **Sch. 3 para. 37(a)**
- F54** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 76(b)**
- F55** Definition substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **s. 25(a)**
- F56** [S. 462\(1\)](#): para. (iia) in the definition of “officer of law” inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117\(1\)](#), **Sch. 6 Pt. I para. 157(2)(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F57** Definition of “order restricting discharge” repealed by [Mental Health \(Amendment\) \(Scotland\) Act 1983 \(c. 39\)](#), **Sch. 3**
- F58** Words in the definition of “place of safety” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(c)** (with s. 103(1))
- F59** Definitions of “prison officer” and “officer of a prison” inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117\(1\)](#), **Sch. 6 Pt. I para. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F60** Definition substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **s. 25(b)**
- F61** Words in the definition of “prosecutor” in s. 462(1) repealed (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117](#), **Sch. 6 Pt. I para. 157(2)(c)**, **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F62** Definition of “reporter” in s. 462(1) shall cease to have effect (S.) (1.4.1996) by virtue of [1994 c. 39, ss. 180\(1\)](#), **Sch. 13 para. 97(6)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F63** Words in the definition of “residential establishment” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(d)** (with s. 103(1))
- F64** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(1), **Sch. 3 para. 37(b)**
- F65** Definition inserted by virtue of [Mental Health \(Amendment\) \(Scotland\) Act 1983 \(c. 39\)](#), **Sch. 2 para. 37(b)** and [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), **s. 126(2)(b)**
- F66** Definition substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62\)](#), **Sch. 7 para. 76(c)**

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- F67** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 37(c)**
- F68** Words in the definition of “supervision requirement” in s. 462(1) substituted (S.) (*prosp.*) by 1995 c. 36, s. 105(1)(4), **Sch. 4 para. 24(18)(e)** (with s. 103(1))
- F69** Words in s. 462(6) substituted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 157(3)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F70** S. 462(10) repealed (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117, **Sch. 6 Pt. I para. 157(4)**, **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

Modifications etc. (not altering text)

- C2** in s. 462(1), definition of “justice” applied by Customs and Excise Management Act 1979 (c. 2, SIF 40:1), s. 118C(3) (as inserted by Finance Act 1991 (c. 31, SIF 40:1), s. 12, **Sch. 5**).
- C3** S. 462(1) definition of “medical practitioner” amended by Medical Act 1983 (c. 54, SIF 83:1), **Sch. 6 para.11(2)**

Marginal Citations

- M5** 1887 c. 35(39:1).
- M6** 1978 c. 29(113:2).
- M7** 1984 c. 36(85).
- M8** 1968 c. 49(81:3).
- M9** 1956 c. 76.
- M10** 1967 c. 77(95).
- M11** 1968 c. 49(81:3).
- M12** 1984 c. 36(85).
- M13** 1984 c. 36(85).
- M14** 1968 c. 49(81:3).
- M15** 1957 c. 53(7:1).
- M16** 1955 c. 18(7:1).
- M17** 1955 c. 19(7:1).

[^{F1}463 Extent.

- (1) The following provisions of this Act shall extend to England and Wales, that is to say—
- (a) in Part I, sections . . . ^{F71}, 169, 188(3) to (8) [^{F72}189 and 212A(2) and (6)];
 - (b) in Part II, sections . . . ^{F73}, 365, 370 (so far as relating to section 374), 374, 389(3) to (8) [^{F74}, 390 and 413];
 - (c) in Part III, section 463(1);
 - (d) in Schedule 9, the amendments relating to—
 - (i) . . . ^{F75}
 - (ii) the ^{M18}Criminal Justice Act 1961;
 - (iii) . . . ^{F75}
 - (iv) the ^{M19}Criminal Justice Act 1967;
 - (v) the ^{M20}Children and Young Persons Act 1969;
 - (vi) the ^{M21}Immigration Act 1971;
 - (vii) the ^{M22}Criminal Justice Act 1972; and
 - (viii) the ^{M23}Powers of Criminal Courts Act 1973.
 - (e) in Schedule 10, the repeals relating to—
 - (i) sections 46, 50 and 54 of the ^{M24}Children and Young Persons (Scotland) Act 1937;

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- (ii) sections 7 and 7A of the ^{M25}Criminal Justice (Scotland) Act 1949;
- (iii) sections 39, 40 and 53(1) of the ^{M26}Criminal Justice (Scotland) Act 1963;
- (iv) section 54(8) of the ^{M27}Criminal Justice Act 1967;
- (v) Schedule 5 (other than paragraph 68 thereof) to the ^{M28}Children and Young Persons Act 1969; and
- (vi) sections 53 and 58(a) of, and paragraphs 3 and 19 of Schedule 5 to, the ^{M29}Powers of Criminal Courts Act 1973.

[^{F76}(1A) Sections 169 [^{F77}, 374 and 413] of this Act shall extend to Northern Ireland.]

- (2) The following provisions of this Act shall extend to the Isle of Man, that is to say—
 - (a) in Part I, section 16;
 - (b) in Part II, section 324;
 - (c) in Part III, section 463(2);
 - (d) in Schedule 10, the repeal relating to section 53(3) of the ^{M30}Criminal Justice (Scotland) Act 1963.
- (3) Save as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall extend to Scotland only.]

Textual Amendments

- F71** Words repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13**
- F72** Words in s. 463(1)(a) substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(38)** (with s. 47(2), [Sch. 6 paras. 1, 2](#)); S.I. 1993/2050, **art. 3(4)**
- F73** Words repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13** and [Magistrates' Courts Act 1980 \(c. 43, SIF 39:1\)](#), s. 154, **Sch. 9**
- F74** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 59(2)(a)**
- F75** S. 463(1)(d)(i)(iii) repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13**
- F76** S. 463(1A) added by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 77**
- F77** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 59(2)(b)**

Marginal Citations

- M18** 1961 c. 39(39:1).
- M19** 1967 c. 80.(39:1).
- M20** 1969 c. 54(20).
- M21** 1971 c. 77(62).
- M22** 1972 c. 71(39:1).
- M23** 1973 c. 62(39:1).
- M24** 1937 c. 37(20).
- M25** 1949 c. 94.(39:1).
- M26** 1963 c. 39(39:1).
- M27** 1967 c. 80.(39:1).
- M28** 1969 c. 54(20).
- M29** 1973 c. 62(39:1).
- M30** 1963 c. 39(39:1).

[^{F1}464 **Short title and commencement.**

- (1) This Act may be cited as the Criminal Procedure (Scotland) Act 1975.

Status: This version of this Act contains provisions that are prospective.

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- (2) Subject to the following provisions of this section, this Act shall come into operation on 16th May 1975.
- (3) Sections 23 and 329 of this Act shall come into operation on such day as Her Majesty may by Order in Council appoint.
- (4) Sections 214 and 423 of this Act shall come into operation on such date as the Secretary of State may by order appoint; and any such order shall be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (4) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Subordinate Legislation Made

P1 [S. 464\(3\)](#) power of appointment exercised (19.12.1991) by [S.I.1991/2883](#)

Status:

This version of this Act contains provisions that are prospective.

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 14 repealed (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(2)Sch. 5
- s. 23(1)(a)(i) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(3)
- s. 23(1)(b) word added by 1975 c. 72 s. 70(a)
- s. 23(3) word added by 1975 c. 72 s. 70(b)
- s. 23(4)(a) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(3)
- s. 24(1) word added by 1975 c. 72 s. 70(a)
- s. 24(2) word added by 1975 c. 72 s. 70(c)
- s. 37(4) added (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(4)
- s. 39(4) substituted (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(5)(a)
- s. 39(5) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(5)(b)
- s. 168 amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(6)(c)
- s. 168(c) repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(6)(a)Sch. 5
- s. 171(2) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(7)
- s. 173(1)-(3) replaced (by subs.(1)-(3)(3A)) (prosp.) by 1995 c. 36 s. 49(1)
- s. 177 repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(8)Sch. 5
- s. 186(1)(b)(c) amended by 1994 c. 39 Sch. 13 para. 97(3)
- s. 296(3) repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(9)(a)Sch. 5
- s. 296(4) repealed (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(9)(b)Sch. 5
- s. 297(1) word added by 1975 c. 72 s. 70(a)
- s. 297(2) word added by 1975 c. 72 s. 70(c)
- s. 304(4) added (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(10)
- s. 307(4) substituted (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(11)(a)
- s. 307(5) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(11)(b)
- s. 323 repealed (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(12)Sch. 5
- s. 329(1)(a)(i) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(13)(a)
- s. 329(1)(b) word added by 1975 c. 72 s. 70(a)
- s. 329(3) word added by 1975 c. 72 s. 70(b)
- s. 329(4)(a) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(13)(b)
- s. 364(372(1)(a)372(1)(b)372(3)373) amended by 1994 c. 39 Sch. 13 para. 97(2)
- s. 364 amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(14)(c)
- s. 364(c) repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(14)(a)Sch. 5
- s. 368(2) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(15)
- s. 372(1)-(3) replaced (by subs.(1)-(3)(3A)) (prosp.) by 1995 c. 36 s. 49(2)
- s. 378 repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(16)Sch. 5
- s. 413(1) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(17)(a)
- s. 413(3) (defn. of "secure accommodation") added (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(17)(b)(ii)
- s. 413(3A) added (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(17)(c)
- s. 413(4)(5) repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(17)(d)(e)Sch. 5
- s. 413(6) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(17)(f)
- s. 413(6A) repealed in part (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(17)(g)Sch. 5

- s. 413(6B)(6C)s. 413(6C)(a)(b) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(17)(h)(i)
- Sch. 9 para. 4344 repealed (prosp.) by 1995 c. 36 s. 105(5)Sch. 5

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act certain function transferred. by 1994 c. 39 s. 127(1)128

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 168(c)(ii) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(6)(b)
- s. 364(c)(ii) amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(14)(b)
- s. 413(3) (defn. of "the appropriate local authority") para. (a)(b) amended by 1994 c. 39 Sch. 13 para. 97(5)
- s. 413(3) (defns. of "care" and "the 1968 Act") repealed (prosp.) by 1995 c. 36 s. 105(4)(5)Sch. 4 para. 24(17)(b)(i)Sch. 5
- s. 462 (defns. of "child" "children's hearing" "place of safety" "residential establishment" and "supervision requirement") amended (prosp.) by 1995 c. 36 s. 105(4)Sch. 4 para. 24(18)
- s. 462 (defns. of "crime" and "prosecutor") applied (prosp.) by 1995 c. 36 s. 53(7)