



# Criminal Procedure Act 1701

## 1701 CHAPTER 6

Act for preventing wrongous Imprisonments and against undue delays in Tryals.

**Modifications etc. (not altering text)**

C1 Short title given by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 2](#)

. . . <sup>F1</sup> And His Majestie with advice and consent forsaied farder Statutes and Ordains that upon application of any prisoner for Custody in order to tryal whither for capital or bailable Crimes to any of the Lords of Justiciary or other Judge or Judicatory competent for judgeing the crime or offence for which he is imprisoned and the said prisoner his produceing the said double of the warrand of his imprisonment under the Keepers hand the said Judge or Judicatory competent . . . <sup>F2</sup> are hereby Ordained within twenty four hours after the said application and petition is presented to him or them to give out letters or precepts direct to messengers for intimating to his Majesties Advocat or Procurator fiscall and party appearing by the warrand to be concerned if any be within the Kingdom to fix a dyet for the tryal within sixty dayes after the intimation Certifieing his Majesties Advocat or Procurator fiscall and the said party concerned that if they failyie the prisoner shall be discharged and set at liberty without delay For doing whereof the said Judge or Judicatory competent are hereby expressly warranted and strictly required and ordained to do the same . . . <sup>F2</sup> unless the delay be upon the prisoners petition or desire And the dyet of the tryal being prefixed the Magistrats of the place or Keeper of the prison shall then be oblided to deliver the prisoner to a sufficient guard to be provided by the Judge his Majesties Advocat or Procurator fiscal that the prisoner may be sisted before the Judge competent And his Majesties Advocat or Procurator fiscal shall insist in the lybell and the Judge put the same to a tryal and the same shall be determined by a final sentence within fourty dayes if before the Lords of Justiciary and thirty dayes if before any other Judge And if his Majesties Advocat or Procurator fiscal do not insist in the tryal at the day appointed and prosecute the same to the conclusion as aforsaid His Majestie with advice forsaied Statutes and Ordains that the dyet shall then be simpliciter deserted and the prisoner immediatly liberat from his imprisonment for that crime or offence And if no process be raised and execute within the time allowed or in case of not insisting at the dyet and bringing the process to a conclusion within the forsaied space it shall be lawful to the prisoner to apply to the Justice General Justice Clerk or

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Procedure Act 1701. (See end of Document for details)*

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any of the Lords of Justiciary or Judge competent respective And upon his application and instructing that the limited time by law for insisting or concludeing the process is elapsed and Instruments taken thereupon the said Justice General Justice Clerk Lords of Justiciary and Judge competent shall be obliged within twenty four hours to issue out Letters or precepts direct to Messengers for chargeing the Magistrats or keepers of the prison where the prisoner is detained for setting him at liberty . . . <sup>F2</sup> And the prisoner being liberat in manner forsaid it shall not be lawfull to put or detain him in prison for the same Crime . . . <sup>F2</sup> Provideing allwayes that in case of imprisonment for treason the prisoner shall not have access to apply for prefixing of a dyet for process for forty dayes after his imprisonment which are hereby allowed for prepareing of the process After elapseing of which time the . . . <sup>F2</sup> Lords of Justiciary or any one of them are hereby required upon the application of the prisoner to issue furth precepts as in other cases And in case of not insisting or prosecuteing the process as aforesaid the prisoner shall be liberat upon sufficient baill to Compear at any time when called within twelve moneths for his good and peaceable behaviour in the mean time the said baill not exceeding the double of the baill in other crimes . . . <sup>F2</sup> And farder Discharges all closs imprisonments beyond the space of Eight dayes from the commitment . . . <sup>F2</sup> and his Majestie with advice and consent foresaid Enacts and Declares that action and process for wrongous imprisonment shall prescribe if not pursued within three years after the last day of the wrongous imprisonment And process being once raised the same shall prescribe if not insisted in yearly thereafter . . . <sup>F2</sup>

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#### **Textual Amendments**

- F1** Words repealed by [Statute Law Revision \(Scotland\) Act 1906 \(c. 38\)](#), [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [Sch. 10 Pt. 1](#)
- F2** Words repealed by [Statute Law Revision \(Scotland\) Act 1964 \(c. 80\)](#), [Sch. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Procedure Act 1701.