



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART I

#### SOLEMN PROCEDURE

*Miscellaneous provisions as to conviction, sentence, etc.*

#### **216 Art and part guilt of statutory offence**

A person may be convicted of, and punished for, a contravention of any statute or order, notwithstanding that he was guilty of such contravention as art and part only.

#### **217 Form of sentence**

- (1) In any case the sentence to be pronounced shall be announced by the judge in open court and shall be entered in the record in the form now in use in the High Court, and it shall not be necessary to read the entry of the sentence from the record.
- (2) In recording sentences of imprisonment, it shall be sufficient to minute the term of imprisonment to which the court sentenced the panel, without specifying the prison in which the sentence is to be carried out; and such entries of sentences, signed by the clerk of court, shall be full warrant and authority for all execution to follow thereon, and for the clerk to issue extracts thereof for carrying the same into execution or otherwise.
- (3) In extracting sentences of imprisonment, the extract may be in the form set out in an Act of Adjournal under this Act or as nearly as may be in such form.

#### **218 Consideration of time spent in custody**

A court, in passing a sentence of imprisonment or detention in a young offenders institution as defined in section 31(1)(d) of the Prisons (Scotland) Act 1952 on a person for any offence, shall, in determining the period of imprisonment or detention, have

regard to any period of time spent in custody by that person on remand awaiting trial or sentence.

**219 Deferred sentence**

It shall be competent for a court to defer sentence after conviction for a period and on such conditions as the court may determine.

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

A capital sentence shall not be competent under this Act.

**221 No penal servitude or hard labour**

- (1) No person shall be sentenced by a court to penal servitude; and every enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before 12th June 1950:

Provided that nothing in this subsection shall be construed as empowering a court, other than the High Court, to pass a sentence of imprisonment for a term exceeding two years.

- (2) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before 12th June 1950; and so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect.

**222 No fees exigible**

No fees or expenses of any description shall be exigible by the clerk or other officer of court from any person on whom an indictment shall have been served, unless the same shall form part of the sentence of the court; but the fees exigible from the prosecutor by such clerk or officer shall not be affected by the provisions of this section.

**223 Forfeiture of property**

- (1) Where a person is convicted of an offence and the court which passes sentence is satisfied that any property which was in his possession or under his control at the time of his apprehension—
- (a) has been used for the purpose of committing, or facilitating the commission of, any offence ; or
  - (b) was intended by him to be used for that purpose, that property shall be liable to forfeiture, and any property forfeited under this section shall be disposed of as the court may direct.
- (2) Any reference in this section to facilitating the commission of an offence shall include a reference to the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

**224 Warrant of search for forfeited articles**

Where a court has made an order for the forfeiture of an article, the court or any justice may, if satisfied on information on oath—

- (a) that there is reasonable cause to believe that the article is to be found in any place or premises ; and
- (b) that admission to the place or premises has been refused or that a refusal of such admission is apprehended,

issue a warrant of search which may be executed according to law.

**225 Interlocutors to be signed by clerk**

In the High Court, interlocutors shall be distinctly minuted or entered in the record, and that entry shall be signed by the clerk.

**226 Record copies to be inserted in books of adjournal of High Court**

The record copies of indictments brought before the High Court, and the record copies of all printed proceedings in the said court, shall be inserted in the books of adjournal, either at their proper place in the body of such books, or at the end of the volume wherein the relative procedure is recorded, in which case they shall be distinctly referred to as so appended; and the books of adjournal so made up and completed shall be and be taken to be and be used as the books of adjournal of the said court.

**227 Indictment to be inserted in record book in sheriff court**

When an indictment in any sheriff court is either wholly or partly printed, a copy of it, either wholly or partly printed, shall be inserted in the record book of court, either in its proper place in the body thereof or at the end of the volume wherein the relative procedure is recorded, in which last case it shall be distinctly referred to as so appended. Appeal