



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

#### CONVICTION AND SENTENCE

#### *Adjournment and remand*

#### **380 Power of court to adjourn case before sentence.**

- (1) It is hereby declared that the power of a court to adjourn the hearing of a case includes power, after a person has been convicted or the court has found that he committed the offence and before he has been sentenced or otherwise dealt with, to adjourn the case for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with his case [<sup>F1</sup>and where the court [<sup>F2</sup>adjourns the case solely for that purpose] it shall remand the accused in custody or on bail][<sup>F3</sup>or ordain him to appear at the adjourned diet].

Provided that a court shall not [<sup>F4</sup>solely] for the purpose aforesaid adjourn the hearing of a case for any single period exceeding

- [<sup>F5</sup>(a) where the accused is remanded in custody, three weeks; or  
(b) where he is remanded on bail or is ordained to appear, eight weeks but only on cause shown and otherwise four weeks]

- [<sup>F6</sup>(2) An accused who is remanded under this section may appeal against the refusal of bail or against the conditions imposed within 24 hours of his remand, by note of appeal presented to the High Court, and the High Court, either in court or in chambers, may, after hearing parties—

- [ review the order appealed against and either grant bail on such conditions as  
<sup>F7</sup>(a) it thinks fit or ordain the accused to appear at the adjourned diet;] or  
(b) confirm the order.]

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#### Textual Amendments

- F1** Words inserted by [Bail etc. \(Scotland\) Act 1980 \(c. 4, SIF 39:1\), s. 5\(a\)](#)
- F2** Words in [s. 380\(1\)](#) substituted (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. 68\(a\)](#); S.I. 1996/517, arts. 3(2), 4-6, [Sch. 2](#)
- F3** Words inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\), Sch. 7 para. 59\(a\)](#)
- F4** Word in the proviso to [s. 380\(1\)](#) inserted (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. 68](#); S.I. 1996/517, arts. 3(2), 4-6, [Sch. 2](#)
- F5** [S. 380\(1\)\(a\)\(b\)](#) substituted (18.9.1993) for words “three weeks” by [1993 c. 9, s. 47\(1\), Sch. 5 para. 1\(6\)](#) (with [s. 47\(2\), Sch. 6 paras. 1, 2](#)); S.I. 1993/2050, arts. 3(3), 4(1)(c), [Sch. 2](#)
- F6** Words substituted by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\), s. 45\(1\), Sch. 2 para. 11](#)
- F7** [S. 380\(2\)\(a\)](#) substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\), Sch. 7 para. 59\(b\)](#)

### [<sup>F8</sup>380A Offence committed by person under supervision etc.: provision of local authority report.

- (1) Where a person specified in section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968 commits an offence, the court shall not dispose of the case without obtaining from the local authority in whose area the person resides a report as to—
- (a) the circumstances of the offence; and
  - (b) the character of the offender, including his behaviour while under the supervision, or as the case may be subject to the order, so specified in relation to him.
- (2) In subsection (1) above, “the court” does not include a district court.]

#### Textual Amendments

- F8** [S. 380A](#) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 37\(2\)](#); S.I. 1996/517, arts. 3(2), 4-6, [Sch. 2](#)

### 381 Remand for inquiry into physical or mental condition.

- (1) Without prejudice to any powers exercisable by a court under the last foregoing section, where a person is charged before a court with an offence punishable with imprisonment, and the court is satisfied that he did the act or made the omission charged but is of opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined, the court [<sup>F9</sup>shall—
- (a) for the purpose of inquiry solely into his physical condition, remand him in custody or on bail;
  - (b) for the purpose of inquiry into his mental condition (whether or not in addition to his physical condition), remand him in custody or on bail or, where the court is satisfied—
    - (i) on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder; and
    - (ii) that a hospital is available for his admission and suitable for his detention,

make an order committing him to that hospital,

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for]such period or periods, no single period exceeding three weeks, as the court thinks necessary to enable a medical examination and report to be made.

[<sup>F10</sup>(1A) Where the court is of the opinion that a person ought to continue to be committed to hospital for the purpose of inquiry into his mental condition following the expiry of the period specified in an order for committal to hospital under paragraph (b) of subsection (1) above, the court may—

- (a) if the condition in sub-paragraph (i) of that paragraph continues to be satisfied and a suitable hospital is available for his continued detention, renew the order for such further period not exceeding three weeks as the court thinks necessary to enable a medical examination and report to be made; and
- (b) in any other case, remand the person in custody or on bail in accordance with subsection (1) above.

(1B) An order under subsection (1A)(a) above may, unless objection is made by or on behalf of the person to whom it relates, be made in his absence.

(1C) Where, before the expiry of the period specified in an order for committal to hospital under subsection (1)(b) above, the court considers, on an application made to it, that committal to hospital is no longer required in relation to the person, the court shall revoke the order and may make such other order, under subsection (1)(a) above or any other provision of this Part of this Act, as the court considers appropriate.]

(2) Where a person is remanded on bail under this section, . . . <sup>F11</sup> it shall be a condition of the [<sup>F12</sup>order granting bail] that he shall—

- (a) undergo a medical examination by a duly qualified medical practitioner or, where the inquiry is into his mental condition and the [<sup>F12</sup>order granting bail] so specifies, two such practitioners; and
- (b) for the purpose attend at an institution or place, or on any such practitioner specified in the [<sup>F12</sup>order granting bail] and, where the inquiry is into his mental condition, comply with any directions which may be given to him for the said purpose by any person so specified or by a person of any class so specified;

and, if arrangements have been made for his reception, it may be a condition of the [<sup>F12</sup>order granting bail] that the person shall, for the purpose of the examination, reside in an institution or place specified as aforesaid, not being an institution or place to which he could have been remanded in custody, until the expiry of such period as may be so specified or until he is discharged therefrom, whichever first occurs.

(3) . . . . . <sup>F13</sup>

(4) On exercising the powers conferred by this section [<sup>F14</sup>to remand in custody or on bail] the court shall—

- (a) where the person is remanded in custody, send to the institution or place in which he is detained, and
- (b) where the person is released on bail, send to the institution or place at which or the person by whom he is to be examined,

a statement of the reasons for which the court is of opinion that an inquiry ought to be made into his physical or mental condition, and of any information before the court about his physical or mental condition.

[<sup>F15</sup>(4A) On making an order of committal to hospital under subsection (1)(b) above the court shall send to the hospital specified in the order a statement of the reasons for which

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the court is of the opinion that an inquiry ought to be made into the mental condition of the person to whom it relates, and of any information before the court about his mental condition.]

[<sup>F16</sup>(5) A person remanded under this section may appeal against the refusal of bail or against the conditions imposed [<sup>F17</sup>, and a person committed to hospital under this section may appeal against the order of committal,] within 24 hours of his remand [<sup>F18</sup>or, as the case may be, committal], by note of appeal presented to the High Court, and the High Court, either in court or in chambers, may after hearing parties—

- (a) review the order and grant bail on such conditions as it thinks fit; or
- (b) confirm the order.][<sup>F19</sup>; or
- (c) in the case of an appeal against an order of committal to hospital, revoke the order and remand the person in custody.]

[<sup>F20</sup>(6) The court may, on cause shown, vary an order for committal to hospital under subsection (1)(b) above by substituting another hospital for the hospital specified in the order.

(7) Subsection (1)(b) above shall apply to the variation of an order under subsection (6) above as it applies to the making of an order for committal to hospital.]

#### Textual Amendments

- F9** S. 381(1)(a)(b) and words substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) for words by 1995 c. 20, s. 55(2); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F10** Words substituted by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 15(a)**
- F11** Words substituted as provided by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 13**
- F12** Words repealed by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 11(a)**
- F13** Words inserted by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 14**
- F14** Words in s. 381(4) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(4); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F15** S. 381(4A) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(5); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F16** Word substituted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 11(b)**
- F17** Words in s. 381(5) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(6)(a); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F18** Words in s. 381(5) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(6)(b); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F19** S. 381(5)(c) and the word “or” immediately preceding inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(6)(c); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F20** S. 381(6)(7) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 55(7); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

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**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\(7\)](#)