



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PROCEDURE PRIOR TO TRIAL

APPEAL

Procedure at hearing

[^{F1}254 Disposal of appeals.

- (1) The High Court may, subject to subsection (4) below, dispose of an appeal against conviction by—
- affirming the verdict of the trial court;
 - setting aside the verdict of the trial court and either quashing the conviction or substituting therefor an amended verdict of guilty:

Provided that an amended verdict of guilty must be one which could have been returned on the indictment before the trial court; or

- setting aside the verdict of the trial court and granting authority to bring a new prosecution in accordance with section 255 of this Act.
- (2) In setting aside, under subsection (1) above, a verdict the High Court may quash any sentence imposed on the appellant [^{F2}(or as the case may be any disposal or order made)]as respects the indictment, and—
- in a case where it substitutes an amended verdict of guilty, whether or not the sentence [^{F3}(or disposal or order)]related to the verdict set aside; or
 - in any other case, where the sentence [^{F3}(or disposal or order)]did not so relate, may pass another (but not more severe) sentence [^{F4}or make another (but not more severe) disposal or order]in substitution for the sentence [^{F5}, disposal or order]so quashed.
- (3) The High Court may, subject to subsection (4) below, dispose of an appeal against sentence by—
- affirming such sentence; or

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 254 is up to date with all changes known to be in force on or before 15 June 2023. 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

- (b) if the Court thinks that, having regard to all the circumstances, including any additional evidence such as is mentioned in section 228(2) of this Act, a different sentence should have been passed, quashing the sentence and passing another sentence whether more or less severe in substitution therefor.
- (4) In relation to any appeal under section 228(1) of this Act, the High Court shall, where it appears to it that the appellant [^{F6}(or disposal or order made)] committed the act charged against him but that he was insane when he did so, dispose of the appeal by—
- (a) setting aside the verdict of the trial court and substituting therefor a verdict of acquittal on the ground of insanity; and
- (b) quashing any sentence imposed on the appellant as respects the indictment [^{F7}and—
- (i) making, in respect of the appellant, any order mentioned in section 174ZC(2)(a) to (d) of this Act; or
- (ii) making no order.]
- [In subsection (3) above, “appeal against sentence” shall, without prejudice to the ^{F8}(4A) generality of the expression, be construed as including an appeal under section 228(1) (bb), (bc) or (bd), and any appeal under section 228A, of this Act; and other references to sentence in that subsection shall be construed accordingly.]
- [Subsections (3) and (4) of section 174ZC of this Act shall apply to an order made ^{F9}(5) under subsection (4)(b)(i) above as they apply to an order made under subsection (2) of that section.]]

Textual Amendments

- F1** S. 254 substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 2 para. 18, **Sch. 6 para. 6**
- F2** Words in s. 254(2) inserted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(7)(a)(i)**
- F3** Words in s. 254(2)(a)(b) inserted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(7)(a)(ii)**
- F4** Words in s. 254(2) inserted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(7)(a)(iii)**
- F5** Words in s. 254(2) inserted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(7)(a)(iv)**
- F6** Words in s. 254(4) inserted (27.7.1993) by 1993 c. 36, s. 79(13), Sch. 5 Pt. I para. 2(7)(b)
- F7** Words in s. 254(4)(b) 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. 85(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F8** S. 254(4A) inserted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(7)(c)**
- F9** S. 254(5) 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. 85(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 254(3) extended (1.10.1993) by 1993 c. 9, ss. 5, 6, 10, 16(6) (with ss. 5(1), 6(1), 10, 27, 47(2), Sch. 6 paras. 1, 2, 6, 7); S.I. 1993/2050, **art. 3(4)**

Changes to legislation:

Criminal Procedure (Scotland) Act 1975, Section 254 is up to date with all changes known to be in force on or before 15 June 2023. 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.

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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\(7\)](#)