



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

##### *Trial Procedure*

#### **357 Laying of previous convictions before court.**

- (1) Where the accused in a summary prosecution has been previously convicted of any offence and the prosecutor has decided to lay a previous conviction before the court, the following provisions shall have effect:—
- (a) a notice in the form, as nearly as may be, of <sup>F1</sup> . . . or of the appropriate form in an Act of Adjournal under this Act setting forth the previous conviction shall be served on the accused with the complaint where he is cited to a diet, and where he is in custody the complaint and such a notice shall be served on him before he is asked to plead;
  - (b) the previous conviction shall not be laid before the judge until he is satisfied that the charge is proved;
  - (c) if a plea of guilty is tendered or if, after a plea of not guilty, the accused is convicted the prosecutor shall lay the notice referred to in paragraph (a) of this subsection before the judge, and
    - [<sup>F2</sup>(i) in a case where the plea of guilty is tendered in writing the accused shall be deemed to admit any previous conviction set forth in the notice, unless he expressly denies it in the writing by which that plea is tendered;
    - (ii) in any other case the judge or the clerk of court shall ask the accused whether he admits the previous conviction,

and if such admission is made or deemed to be made it shall be entered in the record of the proceedings.]

- (d) it shall not be necessary for the prosecutor to produce extracts of any previous convictions so admitted;

---

*Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 357 is up to date with all changes known to be in force on or before 16 August 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*

---

- (e) where the accused does not admit any such previous conviction, the prosecutor unless he withdraws the conviction shall adduce evidence in proof thereof either then or at any other diet;
  - (f) a copy of any notice served on the accused under this subsection shall be entered in the record of the proceedings.
- (2) A conviction, or an extract conviction of any offence committed in any part of the United Kingdom, bearing to be under the hand of the officer in use to give out such extract conviction, shall be received in evidence without being sworn to by witnesses. [<sup>F3</sup>A prison officer] of any prison in which the accused may have been confined on such conviction shall be a competent and sufficient witness to prove the application thereof to the accused, although such [<sup>F4</sup>prison officer] may not have been present in court at the trial to which such conviction relates. This provision shall be without prejudice to any other competent mode of proving a conviction and the application thereof to the accused.
- (3) Where in any court a book of record is kept of the convictions in the court containing the like particulars as are inserted in an extract conviction, and where at the end of each day's proceedings the entries in such book are certified as correct by the judge or clerk of court, such entries shall, in any proceeding in that court, be accepted as evidence of such convictions.
- <sup>F5</sup>(4) .....
- (5) Nothing in this section shall prevent [<sup>F6</sup>the prosecutor—
- (a) asking the accused questions tending to show that the accused has been convicted of an offence other than that with which he is charged, where he is entitled to do so under section 346 of this Act; or
  - (b) leading evidence of previous convictions where it is competent to do so—
    - (i) as evidence in support of a substantive charge; or
    - (ii) under section 346ZA of this Act.]
- [<sup>F7</sup>(6) Without prejudice to subsections (1) to (3) above, where proof of a previous conviction is competent in support of a substantive charge, any such conviction or an extract of it shall, if—
- (a) it purports to relate to the accused and to be signed by the clerk of court having custody of the record containing the conviction; and
  - (b) a copy of it has been served on the accused not less than 14 days before the trial diet,
- be sufficient evidence of the application of the conviction to the accused unless, within seven days of the date of service of the copy on him, he serves notice on the prosecutor that he denies that it applies to him.
- (7) A copy of a conviction or extract conviction served under subsection (6) above shall be served on the accused in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person who served the copy together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of the copy.]

---

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1975, Section 357 is up to date with all changes known to be in force on or before 16 August 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*

---

---

### Textual Amendments

- F1** Words in s. 357(1)(a) 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. 127(a), **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F2** Words substituted by **Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1)**, s. 40, **Sch. 6 para. 1**
- F3** Words in s. 357(2) 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. 127(b)(i)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F4** Words in s. 357(2) 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 127(b)(ii)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F5** S. 357(4) 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. 127(c), **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F6** S. 357(5)(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. 24(6); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F7** S. 357(6)(7) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 29(2); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

---

### Modifications etc. (not altering text)

- C1** S. 357(1) excluded by **Road Traffic Offenders Act 1988 (c. 53, SIF 107:1)**, ss. 31(2), 32(6)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1975, Section 357 is up to date with all changes known to be in force on or before 16 August 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.

[View outstanding changes](#)

**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\(7\)](#)