



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

##### *Procedure at Trial of Persons suffering from Mental Disorder*

#### **[<sup>F1</sup>375ZD] Appeal by accused in case involving insanity.**

- (1) A person may appeal to the High Court against—
    - (a) a finding made under section 375(2) of this Act that he is insane so that his trial cannot proceed or continue, or the refusal of the court to make such a finding;
    - (b) a finding under section 375ZA(2) of this Act; or
    - (c) an order made under section 375ZC(2) of this Act.
  - (2) An appeal under subsection (1) above shall be—
    - (a) in writing; and
    - (b) lodged—
      - (i) in the case of an appeal under paragraph (a) of that subsection, not later than seven days after the date of the finding or refusal which is the subject of the appeal;
      - (ii) in the case of an appeal under paragraph (b), or both paragraphs (b) and (c), of that subsection, not later than 28 days after the conclusion of the examination of facts;
      - (iii) in the case of an appeal under paragraph (c) of that subsection against an order made on an acquittal, by virtue of section 375(3A) or 375ZA(3) of this Act, on the ground of insanity at the time of the act or omission, not later than 14 days after the date of the acquittal;
      - (iv) in the case of an appeal under that paragraph against an order made on a finding under section 375ZA(2), not later than 14 days after the conclusion of the examination of facts,
- or within such longer period as the High Court may, on cause shown, allow.

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**Changes to legislation:** *Criminal Procedure (Scotland) Act 1975, Section 375ZD is up to date with all changes known to be in force on or before 29 May 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*

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- (3) Where an appeal is taken under subsection (1) above, the period from the date on which the appeal was lodged until it is withdrawn or disposed of shall not count towards any time limit applying in respect of the case.
- (4) An appellant in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
- (5) In disposing of an appeal under subsection (1) above the High Court may—
  - (a) affirm the decision of the court of first instance;
  - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
  - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.
- (6) Section 443 of this Act shall not apply in relation to any order as respects which a person has a right of appeal under subsection (1)(c) above.]

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#### Textual Amendments

- F1** S. 375ZD inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 51(2); 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\(7\)](#)