



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART II

SUMMARY PROCEDURE

CONVICTION AND SENTENCE

Probation

392 Effects of probation and absolute discharge.

- (1) Subject as hereinafter provided, a conviction . . . ^{F1} of an offence for which an order is made . . . ^{F1} placing the offender on probation or discharging him absolutely shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of laying it before a court as a previous conviction in subsequent proceedings for another offence:

Provided that where an offender, being not less than 16 years of age at the time of his conviction of an offence for which he is placed on probation as aforesaid, is subsequently sentenced under this Act for that offence, the provisions of this subsection shall cease to apply to the conviction.

- (2) Without prejudice to the foregoing provisions of this section, the conviction of an offender who is placed on probation or discharged absolutely as aforesaid shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons, or authorises or requires the imposition of any such disqualification or disability.
- (3) The foregoing provisions of this section shall not affect—
- [^{F2}(a) any right to appeal;]
 - (b) the operation, in relation to any such offender, of any enactment which was in force as at the commencement of section 9(3)(b) of the ^{M1}Criminal Justice (Scotland) Act 1949 and is expressed to extend to persons dealt with under

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 392 is up to date with all changes known to be in force on or before 14 March 2024. 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

section 1(1) of the ^{M2}Probation of Offenders Act 1907 as well as to convicted persons.

- (4) Where an offender is ^{F3}. discharged absolutely by a court of summary jurisdiction, he shall have the like right of appeal against the finding that he committed the offence as if that finding were a conviction.
- (5) Where a person charged with an offence has at any time previously been. discharged absolutely in respect of the commission by him of an offence, it shall be competent, in the proceedings for that offence, to bring before the court the.order of absolute discharge in like manner as if the order were a conviction.

Textual Amendments

- F1** Words repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 63:1\)](#), [Sch. 6 para. 1](#), [Sch. 8](#)
- F2** [S. 392\(3\)\(a\)](#) substituted (27.7.1993) by 1993 c. 36, s. 79(13), [Sch. 5 Pt. I para. 2\(9\)](#)
- F3** Words in [s. 392\(4\)\(5\)](#) 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. 136](#), [Sch. 7 Pt. I](#); S.I. 1996/517, arts. 3(2), 4-6, [Sch. 2](#)

Modifications etc. (not altering text)

- C1** [S. 392](#) amended by [Licensed Premises \(Exclusion of Certain Persons\) Act 1980 \(c. 32, SIF 68A:1, 2\)](#), [s. 1\(2\)\(c\)](#)
- C2** [S. 392](#) excluded by [Road Traffic Act 1972 \(c. 20, SIF 107:1\)](#), [ss. 93\(8\)](#), 101(8) (as added by [Criminal Justice Act 1980 \(c. 62, SIF 39:1\)](#), [s. 55](#)) and [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [s. 75\(3\)\(b\)](#)
- C3** [S. 392](#) excluded by [Road Traffic Offenders Act 1988 \(c. 53, SIF 107:1\)](#), [s.46\(3\)](#) and by S.I. 1989/1341 (N.I. 12), [art. 73\(3\)\(c\)](#)

Marginal Citations

- M1** 1949 c. 94.(39:1).
- M2** 1907 c. 17.

Changes to legislation:

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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\(7\)](#)