



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

#### CONVICTION AND SENTENCE

#### *Imprisonment, etc.*

#### **417 Restriction on imprisonment of first offenders**

- (1) A court of summary jurisdiction shall not impose imprisonment on a first offender of or over the age of 21 unless the court is of the opinion that no other method of dealing with him is appropriate; and section 416 (2) of this Act shall apply for the purpose of determining whether any other method of dealing with such a person is appropriate as it applies for the purpose of determining whether any other method of dealing with a person under the age of 21 is appropriate.
- (2) Section 416(3) of this Act shall, with the necessary modifications, apply where a first offender of or over the age of 21 is sentenced to imprisonment as it applies where imprisonment is imposed on a person under that age.
- (3) A person falling to be dealt with for an offence shall be treated for the purposes of this section as a first offender if, but only if, he has not since attaining the age of 17 been convicted of any other offence, except an offence not punishable with imprisonment.
- (4) In determining for the purposes of subsection (3) of this section whether a person has been convicted of an offence, no account shall be taken of any of the following enactments, that is to say—
  - (a) section 191 or 392 of this Act (under which a conviction leading to probation or discharge is to be disregarded except as therein mentioned);
  - (b) section 13 of the Powers of Criminal Courts Act 1973 (which makes similar provision in respect of convictions on indictment in England and Wales);

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) section 8 of the Probation Act (Northern Ireland) 1950 or any corresponding enactment of the Parliament of Northern Ireland for the time being in force; and any order made by a court of summary jurisdiction under section 383 or 384 of this Act shall be treated as a conviction.
- (5) For the purposes of subsection (3) of this section, a previous conviction shall be disregarded after the expiration of a period of 10 years from the date of that conviction, being a period exclusive of any period during which the offender was in custody under sentence in respect of the conviction.
- (6) In this section " court" does not include a court-martial, and "offence not punishable with imprisonment" means an offence for which no offender may be sentenced to imprisonment.