



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART I

#### CRIMINAL COURTS

#### JURISDICTION AND POWERS

*[<sup>F1</sup>JP courts]*

#### Textual Amendments

**F1** S. 6 cross-heading substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84(1), [Sch. para. 9\(5\)\(a\)](#); [S.S.I. 2008/42](#), [art. 3](#), Sch.; [S.S.I. 2008/192](#), [art. 3](#), Sch.; [S.S.I. 2008/329](#), [art. 3](#), Sch.; [S.S.I. 2008/362](#), [art. 3](#), Sch.; [S.S.I. 2009/432](#), [art. 3](#), Schs. 1, 2

#### 6 **[<sup>F2</sup>JP courts: constitution and prosecutor].**

(1) <sup>F3</sup> .....

(2) The jurisdiction and powers of the [<sup>F4</sup>JP court] shall be exercisable by a [<sup>F5</sup>summary sheriff] or by one or more justices, and no decision of the court shall be questioned on the ground that it was not constituted as required by this subsection unless objection was taken on that ground by or on behalf of a party to the proceedings not later than the time when the proceedings or the alleged irregularity began.

(3) All prosecutions in a [<sup>F6</sup>JP court] shall proceed at the instance of the procurator fiscal.

(4) <sup>F7</sup> .....

[<sup>F8</sup>(5) The authority of the procurator fiscal to prosecute in JP courts is without prejudice to the authority of any other person to take proceedings there in pursuance of section 43 (prosecutions and penalties) of the Education (Scotland) Act 1980 (c. 44).]

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: JP courts is up to date with all changes known to be in force on or before 26 April 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*

[<sup>F9</sup>(6) In this section, “justice” means a justice of the peace.]

**Textual Amendments**

- F2** S. 6 title substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(5\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F3** S. 6(1) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(a\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F4** Words in s. 6(2) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(4\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F5** Words in s. 6(2) substituted (1.4.2016) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 5 para. 39\(2\)](#); S.S.I. 2016/13, [art. 2 sch.](#) (with [art. 3](#))
- F6** Words in s. 6(3) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F7** S. 6(4) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(c\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F8** S. 6(5) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(d\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F9** S. 6(6) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(e\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2

**Modifications etc. (not altering text)**

- C1** S. 6(2): power to amend conferred (prosp.) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. [63\(2\)](#), 84

7 [<sup>F10</sup>JP courts: jurisdiction and powers].

<sup>F11</sup>(1) .....

<sup>F11</sup>(2) .....

- (3) Except in so far as any enactment (including this Act or an enactment passed after this Act) otherwise provides, it shall be competent for a [<sup>F12</sup>JP court][<sup>F13</sup> to—
  - (a) try any common law or statutory offence which is triable summarily;
  - (b) make such orders and grant such warrants as are appropriate to a court of summary jurisdiction;

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- (c) do anything else (by way of procedure or otherwise) as is appropriate to such a court]
- (4) It shall be competent, whether or not the accused has been previously convicted of an offence inferring dishonest appropriation of property, for any of the following offences to be tried in the [<sup>F14</sup>JP court]—
  - (a) theft or reset of theft;
  - (b) falsehood, fraud or wilful imposition;
  - (c) breach of trust or embezzlement,where (in any such case) the amount concerned does not exceed level 4 on the standard scale.
- <sup>F15</sup>(5) .....
- (6) The [<sup>F16</sup>JP court] shall, without prejudice to any other or wider powers conferred by statute, be entitled on convicting of a common law offence—
  - (a) to impose imprisonment for any period not exceeding 60 days;
  - (b) to impose a fine not exceeding level 4 on the standard scale;
  - (c) to ordain the accused (in lieu of or in addition to such imprisonment or fine) to find caution for good behaviour for any period not exceeding six months and to an amount not exceeding level 4 on the standard scale;
  - (d) failing payment of such fine or on failure to find such caution, to award imprisonment in accordance with section 219 of this Act,but in no case shall the total period of imprisonment imposed in pursuance of this subsection exceed 60 days.
- (7) Without prejudice to any other or wider power conferred by any enactment, it shall not be competent for a [<sup>F17</sup>JP court], as respects any statutory offence—
  - (a) to impose a sentence of imprisonment for a period exceeding 60 days;
  - (b) to impose a fine of an amount exceeding level 4 on the standard scale; or
  - (c) to ordain an accused person to find caution for any period exceeding six months or to an amount exceeding level 4 on the standard scale.
- (8) The [<sup>F18</sup>JP court] shall not have jurisdiction to try or to pronounce sentence in the case of any person—
  - (a) <sup>F19</sup> .....
  - (b) brought before it accused or suspected of having committed within its jurisdiction any of the following offences—
    - (i) murder, culpable homicide, robbery, rape [<sup>F20</sup>(whether at common law or under section 1(1) of the Sexual Offences (Scotland) Act 2009 (asp 9)), rape of a young child (under section 18 of that Act)], wilful fire-raising, or attempted wilful fire-raising;
    - (ii) theft by housebreaking, or housebreaking with intent to steal;
    - (iii) theft or reset, falsehood fraud or wilful imposition, breach of trust or embezzlement, where the value of the property is an amount exceeding level 4 on the standard scale;
    - (iv) assault causing the fracture of a limb, assault with intent to ravish, assault to the danger of life, or assault by stabbing;
    - (v) uttering forged documents or uttering forged bank or banker's notes, or offences under the Acts relating to coinage.

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- (9) Without prejudice to subsection (8) above, where either in the preliminary investigation or in the course of the trial of any offence it appears that the offence is one which—
- (a) cannot competently be tried in the court before which an accused is brought; or
  - (b) in the opinion of the court in view of the circumstances of the case, should be dealt with by a higher court,
- the court may take cognizance of the offence and commit the accused to prison for examination for any period not exceeding four days.
- (10) Where an accused is committed as mentioned in subsection (9) above, the prosecutor in the court which commits the accused shall forthwith give notice of the committal to the procurator fiscal of the [F21]area within which the offence was committed or to such other official as is entitled to take cognizance of the offence in order that the accused may be dealt with according to law.

#### Textual Amendments

- F10** S. 7 title substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(5)(c)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F11** S. 7(1)(2) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(2)(a)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F12** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F13** Words in s. 7(3) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(2)(b)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F14** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F15** S. 7(5) repealed (1.4.2016) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 39(3)**; S.S.I. 2016/13, **art. 2 sch.** (with art. 3)
- F16** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F17** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F18** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2

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- F19** S. 7(8)(a) and word repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(2\)\(d\)](#); [S.S.I. 2008/42](#), [art. 3](#), Sch.; [S.S.I. 2008/192](#), [art. 3](#), Sch.; [S.S.I. 2008/329](#), [art. 3](#), Sch.; [S.S.I. 2008/362](#), [art. 3](#), Sch.; [S.S.I. 2009/432](#), [art. 3](#), Schs. 1, 2
- F20** Words in s. 7(8)(b)(i) inserted (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), ss. 61, 62(2), [Sch. 5 para. 2\(3\)](#); [S.S.I. 2010/413](#), [art. 2](#), Sch.
- F21** Word in s. 7(10) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(2\)\(e\)](#); [S.S.I. 2008/42](#), [art. 3](#), Sch.; [S.S.I. 2008/192](#), [art. 3](#), Sch.; [S.S.I. 2008/329](#), [art. 3](#), Sch.; [S.S.I. 2008/362](#), [art. 3](#), Sch.; [S.S.I. 2009/432](#), [art. 3](#), Schs. 1, 2

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)