



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART X

APPEALS FROM SUMMARY PROCEEDINGS

Appeals against sentence

186 Appeals against sentence only.

- (1) An appeal under section [F¹175(2)(b), (c) or (cza)]^{F²}..., or by virtue of section 175(4), of this Act shall be by note of appeal, which shall state the ground of appeal.
- (2) The note of appeal shall, where the appeal is—
 - (a) under section [F¹175(2)(b), (c) or (cza)]^{F²}... be lodged, within one week of—
 - (i) the passing of the sentence; ^{F³} . . . [F⁴ or]
 - (ii) the making of the order disposing of the case or deferring sentence;
^{F⁵} ...
^{F⁵}(iii)
with the clerk of the court from which the appeal is to be taken; or
 - (b) by virtue of section 175(4) be so lodged within four weeks of such passing or making.
- (3) The clerk of court on receipt of the note of appeal shall—
 - (a) send a copy of the note to the respondent or his solicitor; and
 - (b) obtain a report from the judge who sentenced the convicted person or, as the case may be, who disposed of the case or deferred sentence.
- (4) Subject to subsection (5) below, the clerk of court shall within two weeks of the passing of the sentence or within two weeks of the disposal or order against which the appeal is taken—
 - (a) send to the [F⁶Clerk of the Sheriff Appeal Court] the note of appeal, together with the report mentioned in subsection (3)(b) above, a certified copy of the complaint, the minute of proceedings and any other relevant documents; and

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Appeals against sentence is up to date with all changes known to be in force on or before 09 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

- (b) send copies of that report to the appellant and respondent or their solicitors.
- (5) [^{F7}The sheriff principal of the sheriffdom in which the judgment was pronounced may, on cause shown,] extend the period of two weeks specified in subsection (4) above for such period as he considers reasonable.
- (6) Subject to subsection (4) above, the report mentioned in subsection (3)(b) above shall be available only to the [^{F8}Sheriff Appeal Court], the parties and, on such conditions as may be prescribed by Act of Adjournal, such other persons or classes of persons as may be so prescribed.
- (7) Where the judge's report is not furnished within the period mentioned in subsection (4) above or such period as extended under subsection (5) above, the [^{F9}Sheriff Appeal Court] may extend such period, or, if it thinks fit, hear and determine the appeal without the report.
- (8) Section 181 of this Act shall apply where an appellant fails to comply with the requirement of subsection (2)(a) above as they apply where an applicant fails to comply with any of the requirements of section 176(1) of this Act.
- (9) An appellant under section [^{F1}175(2)(b), (c) or (cza)]^{F10}..., or by virtue of section 175(4), of this Act may at any time prior to the hearing of the appeal abandon his appeal by minute, signed by himself or his solicitor, lodged—
- (a) in a case where the note of appeal has not yet been sent under subsection (4) (a) above to the [^{F11}Clerk of the Sheriff Appeal Court], with the clerk of court;
 - (b) in any other case, with the [^{F12}Clerk of the Sheriff Appeal Court],
- and intimated to the respondent.
- (10) Sections 176(5), 177 and 182(5)(a) to (e) of this Act shall apply to appeals under section [^{F1}175(2)(b), (c) or (cza)]^{F10}..., or by virtue of section 175(4), of this Act as they apply to appeals under section 175(2)(a) or (d) of this Act, except that, for the purposes of such application to any appeal by virtue of section 175(4), references in subsections (1) to (4) of section 177 to the appellant shall be construed as references to the convicted person and subsections (6) and (7) of that section shall be disregarded.

Textual Amendments

- F1** Words in s. 186(1)(2)(a)(9)(10) substituted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206(1), **Sch. 2 para. 13**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F2** Words in s. 186(1)(2) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 23(a)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F3** Word in s. 186(2)(a) repealed (4.10.2004) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 24(5)(a), 27(1); S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F4** Word in s. 186(2)(a)(i) inserted (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 23(b)(i)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F5** S. 186(2)(a)(iii) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **sch. 4 para. 23(b)(ii)** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F6** Words in s. 186(4)(a) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **sch. 3 para. 15(2)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F7** Words in s. 186(5) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 25(2), 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F8** Words in s. 186(6) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **sch. 3 para. 15(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Appeals against sentence is up to date with all changes known to be in force on or before 09 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

- F9** Words in s. 186(7) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 3 para. 15\(3\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F10** Words in s. 186(9)(10) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), [sch. 4 para. 23\(a\)](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F11** Words in s. 186(9)(a) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 3 para. 15\(2\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F12** Words in s. 186(9)(b) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 3 para. 15\(2\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)

Modifications etc. (not altering text)

- C1** S. 186(4)(b) excluded by 2006 asp 10, s 96A(5) (as inserted (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, [sch. 2 para. 9\(6\)](#) (with art. 4))

187 Leave to appeal against sentence.

- (1) The decision whether to grant leave to appeal for the purposes of section ^{F13}175(2)(b), (c) or (cza) ^{F14}... of this Act shall be made by ^{F15}an Appeal Sheriff of the ^{F16}Sheriff Appeal Court who shall—
- (a) if he considers that the note of appeal and other documents sent to the ^{F17}Clerk of the Sheriff Appeal Court under section 186(4)(a) of this Act disclose arguable grounds of appeal, grant leave to appeal and make such comments in writing as he considers appropriate; and
- (b) in any other case—
- (i) refuse leave to appeal and give reasons in writing for the refusal; and
- (ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.
- (2) A warrant granted under subsection (1)(b)(ii) above shall not take effect until the expiry of the period of 14 days mentioned in subsection (3) below ^{F18}(and if that period is extended under subsection (3A) below before the period being extended expires, until the expiry of the period as so extended)] without an application to the ^{F19}Sheriff Appeal Court for leave to appeal having been lodged by the appellant under ^{F20}subsection (3) below].
- (3) Where leave to appeal is refused under subsection (1) above the appellant may, within 14 days of intimation under subsection (9) below, apply to the ^{F21}Sheriff Appeal Court for leave to appeal.
- ^{F22}(3A) The ^{F23}Sheriff Appeal Court may, on cause shown, extend the period of 14 days mentioned in subsection (3) above, or that period as extended under this subsection, whether or not the period to be extended has expired (and if that period of 14 days has expired, whether or not it expired before section 25(3) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) came into force).]
- (4) In deciding an application under subsection (3) above the ^{F24}Sheriff Appeal Court shall—
- (a) if, after considering the note of appeal and other documents mentioned in subsection (1) above and the reasons for the refusal, it is of the opinion that there are arguable grounds of appeal, grant leave to appeal and make such comments in writing as he considers appropriate; and

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Appeals against sentence is up to date with all changes known to be in force on or before 09 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

- (b) in any other case—
 - (i) refuse leave to appeal and give reasons in writing for the refusal; and
 - (ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.
- (5) The question whether to grant leave to appeal under subsection (1) or (4) above shall be considered and determined in chambers without the parties being present.
- (6) Comments in writing made under subsection (1)(a) or (4)(a) above may, without prejudice to the generality of that provision, specify the arguable grounds of appeal (whether or not they are contained in the note of appeal) on the basis of which leave to appeal is granted.
- (7) Where the arguable grounds of appeal are specified by virtue of subsection (6) above it shall not, except by leave of the [^{F25}Sheriff Appeal Court] on cause shown, be competent for the appellant to found any aspect of his appeal on any ground of appeal contained in the note of appeal but not so specified.
- (8) Any application by the appellant for the leave of the [^{F26}Sheriff Appeal Court] under subsection (7) above—
 - (a) shall be made [^{F27}within 14 days of the date of intimation under subsection (9) below]; and
 - (b) shall, [^{F28}within 14 days of] that date, be intimated by the appellant to the [^{F29}prosecutor].
- [^{F30}(8A) The [^{F31}Sheriff Appeal Court] may, on cause shown, extend the periods of 14 days mentioned in subsection (8) above.]
- (9) The [^{F32}Clerk of the Sheriff Appeal Court] shall forthwith intimate—
 - (a) a decision under subsection (1) or (4) above; and
 - (b) in the case of a refusal of leave to appeal, the reasons for the decision, to the appellant or his solicitor and to the [^{F33}prosecutor].

Textual Amendments

- F13** Words in s. 187(1) substituted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), ss. 14(2), 206(1), [Sch. 2 para. 14](#); S.S.I. 2010/413, [art. 2](#), Sch. (with art. 3)
- F14** Words in s. 187(1) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (asp 14), s. 101(2), [sch. 4 para. 24](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with art. 5(1))
- F15** Words in s. 187(1) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014](#) (asp 18), s. 138(2), [sch. 3 para. 16\(2\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F16** Words in s. 187(1) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014](#) (asp 18), s. 138(2), [sch. 3 para. 16\(3\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F17** Words in s. 187(1)(a) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014](#) (asp 18), s. 138(2), [sch. 3 para. 16\(4\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F18** Words in s. 187(2) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. 25(3)(a)(i), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)
- F19** Words in s. 187(2) substituted (22.9.2015) by [Courts Reform \(Scotland\) Act 2014](#) (asp 18), s. 138(2), [sch. 3 para. 16\(3\)](#); S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F20** Words in s. 187(2) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. 25(3)(a)(ii), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Appeals against sentence is up to date with all changes known to be in force on or before 09 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

- F21** Words in s. 187(3) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F22** S. 187(3A) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 25(3)(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F23** Words in s. 187(3A) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F24** Words in s. 187(4) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F25** Words in s. 187(7) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F26** Words in s. 187(8) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F27** Words in s. 187(8)(a) substituted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80, 84, Sch. para. 18(3)(a)(i)**; S.S.I. 2007/250, **art. 3(h)(i)** (subject to art. 4(2))
- F28** Words in s. 187(8)(b) substituted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80, 84, Sch. para. 18(3)(a)(ii)**; S.S.I. 2007/250, **art. 3(h)(i)** (subject to art. 4(2))
- F29** Word in s. 187(8)(b) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(5)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F30** S. 187(8A) inserted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80, 84, Sch. para. 18(3)(b)**; S.S.I. 2007/250, **art. 3(h)(i)** (subject to art. 4(2))
- F31** Words in s. 187(8A) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(3)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F32** Words in s. 187(9) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(4)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F33** Word in s. 187(9) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 16(5)**; S.S.I. 2015/247, art. 2, sch. (with art. 6)

Modifications etc. (not altering text)

- C2** S. 187(9) excluded by 2006 asp 10, s 96A(5) (as inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 9(6)** (with art. 4))

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Cross Heading: Appeals against sentence is up to date with all changes known to be in force on or before 09 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.

[View outstanding changes](#)

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.)