



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Admonition and absolute discharge

246 Admonition and absolute discharge.

- (1) [^{F1}Subject to sections 205A and 205B of this Act,] a court may, if it appears to meet the justice of the case, dismiss with an admonition any person convicted by the court of any offence.
- (2) Where a person is convicted on indictment of an offence (other than an offence the sentence for which is fixed by law), if it appears to the court, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment ^{F2} . . . it may instead of sentencing him make an order discharging him absolutely.
- (3) Where a person is charged before a court of summary jurisdiction with an offence (other than an offence the sentence for which is fixed by law) and the court is satisfied that he committed the offence, the court, if it is of the opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment ^{F2} . . . may without proceeding to conviction make an order discharging him absolutely.

Textual Amendments

- F1** Words in s. 246(1) inserted (20.10.1997 for specified purposes and otherwise prosp.) by 1997 c. 48, ss. 62(1), 65(2), **Sch. 1 para. 21(31)**; S.I. 1997/2323, art. 3, **Sch. 1**
- F2** Words in s. 246(2)(3) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 26**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)

Status: Point in time view as at 01/02/2011.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Admonition and absolute discharge is up to date with all changes known to be in force on or before 12 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)

Modifications etc. (not altering text)

C1 S. 246(1)(2) restricted (1.4.1996) by 1995 c. 40, ss. 4, 7(2), **Sch. 3 Pt. II para. 9**

247 Effect of probation and absolute discharge.

- (1) Subject to the following provisions of this section, a conviction of an offence for which an order is made 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.
- (2) Without prejudice to subsection (1) above, 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) Subsections (1) and (2) above shall not affect any right to appeal.
- (4) 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 lay before the court the order of absolute discharge in like manner as if the order were a conviction.
- (5) Where an offender is 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.
- (6) 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 mentioned in subsection (1) above, is subsequently sentenced under this Act for that offence, the provisions of that subsection shall cease to apply to the conviction.

Modifications etc. (not altering text)

- C2 S. 247(1) excluded (1.5.2004) by Sexual Offences Act 2003 (c. 42), **ss. 134(1)(c)**, 141 (with s. 134(2) (3)); S.S.I. 2004/138, **art. 2**
- C3 S. 247(1)(2) excluded (6.4.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 158(3)(c)**, 182 (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 11
- C4 S. 247(1) excluded (prosp.) by 2005 asp 16, s. 96(2A) (as added by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 24(4)**, 206(1))
- C5 S. 247(1)(2) excluded (prosp.) by 2005 asp 16, s. 129(5) (as added by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 24(5)**, 206(1))
- C6 S. 247(1)(2) excluded (prosp.) by 2005 asp 16, s. 129(5) (as added by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 24(5)**, 206(1))
- C7 S. 247(1)(2) excluded (6.4.2010) by Coroners and Justice Act 2009 (c. 25), **ss. 158(3)(c)**, 182 (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 11

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