



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- F2** Words in s. 246(2)(3) repealed (1.2.2011) by **Criminal Justice and Licensing (Scotland) Act 2010** (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 26**; S.S.I. 2010/413, **art. 2, Sch.** (with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)

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 11 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

Modifications etc. (not altering text)

- C1** Ss. 246, 247 excluded by 2007 c. 27, s. 36A(5)(6) (as inserted (1.3.2016) by [Serious Crime Act 2015](#) (c. 9), s. 88(1), [Sch. 1 para. 25](#); S.I. 2016/148, reg. 3(f))
- C2** S. 246 excluded (26.5.2016) by [Psychoactive Substances Act 2016](#) (c. 2), [ss. 32\(6\)\(b\)](#), 63(2); S.I. 2016/553, reg. 2
- C3** 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 [^{F3}discharging the offender] 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 ^{F4}... 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.

^{F5}(6)

Textual Amendments

- F3** Words in s. 247(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), s. 206(1), [sch. 7 para. 59\(a\)](#); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 247(2) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), s. 206(1), [sch. 7 para. 59\(b\)](#); S.S.I. 2011/178, art. 2, sch.
- F5** S. 247(6) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13), s. 206(1), [sch. 7 para. 59\(c\)](#); S.S.I. 2011/178, art. 2, sch.

Modifications etc. (not altering text)

- C1** Ss. 246, 247 excluded by 2007 c. 27, s. 36A(5)(6) (as inserted (1.3.2016) by [Serious Crime Act 2015](#) (c. 9), s. 88(1), [Sch. 1 para. 25](#); S.I. 2016/148, reg. 3(f))
- C4** S. 247 excluded (26.5.2016) by [Psychoactive Substances Act 2016](#) (c. 2), [ss. 32\(6\)\(b\)](#), 63(2); S.I. 2016/553, reg. 2
- C5** S. 247 excluded (31.12.2020) by [European Union \(Future Relationship\) Act 2020](#) (c. 29), [ss. 6\(2\)\(a\)](#), 40(7); S.I. 2020/1662, reg. 2(f)
- C6** 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](#)

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 11 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*

- 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
- C8** S. 247(1)(2) excluded by 2005 asp 16 s. 129(5) (as inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 24(5)**, 206(1); S.S.I. 2011/178, art. 2, sch.)
- C9** S. 247(1) excluded by 2005 asp 16 s. 96(2A) (as inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 24(4)**, 206(1); S.S.I. 2011/178, art. 2, sch.)
- C10** S. 247(1) excluded (28.11.2011) by Double Jeopardy (Scotland) Act 2011 (asp 16), **ss. 1(1)(4)(a)**, 17(3) (with s. 14); S.S.I. 2011/365, art. 3

Changes to legislation:

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[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.)