



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

Proof of previous convictions

285 Previous convictions: proof, general.

- (1) A previous conviction may be proved against any person in any criminal proceedings by the production of such evidence of the conviction as is mentioned in this subsection and subsections (2) to (6) below and by showing that his fingerprints and those of the person convicted are the fingerprints of the same person.
- (2) A certificate purporting to be signed by [^{F1}or on behalf of] the [^{F2}chief constable of the Police Service of Scotland] or the Commissioner of Police of the Metropolis, containing particulars relating to a conviction extracted from the criminal records kept [^{F3}by the person by whom, or on whose behalf, the certificate is signed], and certifying that the copies of the fingerprints contained in the certificate are copies of the fingerprints appearing from the said records to have been taken in pursuance of rules for the time being in force under sections 12 and 39 of the ^{M1}Prisons (Scotland) Act 1989, or regulations for the time being in force under section 16 of the ^{M2}Prison Act 1952, from the person convicted on the occasion of the conviction or on the occasion of his last conviction, shall be sufficient evidence of the conviction or, as the case may be, of his last conviction and of all preceding convictions and that the copies of the fingerprints produced on the certificate are copies of the fingerprints of the person convicted.
- (3) Where a person has been apprehended and detained in the custody of the police in connection with any criminal proceedings, a certificate purporting to be signed by the chief constable concerned or a person authorised on his behalf, certifying that the fingerprints produced thereon were taken from him while he was so detained, shall be sufficient evidence in those proceedings that the fingerprints produced on the certificate are the fingerprints of that person.

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- (4) A certificate purporting to be signed by or on behalf of the governor of a prison or of a remand centre in which any person has been detained in connection with any criminal proceedings, certifying that the fingerprints produced thereon were taken from him while he was so detained, shall be sufficient evidence in those proceedings that the fingerprints produced on the certificate are the fingerprints of that person.
- (5) A certificate purporting to be signed by [^{F4}or on behalf of] the [^{F5}chief constable of the Police Service of Scotland], and certifying that the fingerprints, copies of which are certified as mentioned in subsection (2) above by ^{F6}[^{F7}... or on behalf of][^{F8}the chief constable of the Police Service of Scotland] or the Commissioner of Police of the Metropolis to be copies of the fingerprints of a person previously convicted and the fingerprints certified by or on behalf of a chief constable or a governor as mentioned in subsection (3) or (4) above, or otherwise shown, to be the fingerprints of the person against whom the previous conviction is sought to be proved, are the fingerprints of the same person, shall be sufficient evidence of the matter so certified.
- (6) An extract conviction of any crime committed in any part of the United Kingdom bearing to have been issued by an officer whose duties include the issue of extract convictions shall be received in evidence without being sworn to by witnesses.
- (7) It shall be competent to prove a previous conviction or any fact relevant to the admissibility of the conviction by witnesses, although the name of any such witness is not included in the list served on the accused; and the accused shall be entitled to examine witnesses with regard to such conviction or fact.
- (8) An official of any prison in which the accused has been detained on such conviction shall be a competent and sufficient witness to prove its application to the accused, although he may not have been present in court at the trial to which such conviction relates.
- (9) The method of proving a previous conviction authorised by this section shall be in addition to any other method of proving the conviction.
- [^{F9}(10) In this section “fingerprint” includes any record of the skin of a person’s finger created by a device approved by the Secretary of State under section 18(7B) of this Act.]

Textual Amendments

- F1** Words in s. 285(2) inserted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(a)(i)**
- F2** Words in s. 285(2) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(a)(ii)**
- F3** Words in s. 285(2) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(a)(iii)**
- F4** Words in s. 285(5) inserted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(b)(i)**
- F5** Words in s. 285(5) inserted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(b)(ii)**
- F6** Words in s. 285(5) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(b)(iii)**
- F7** Words in s. 285(5) substituted (1.8.1997) by 1997 c. 48, **s. 59(3)(a)(b)**; S.I. 1997/1712, art. 3, **Sch.** (subject to **arts. 4, 5**)
- F8** Words in s. 285(5) inserted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), art. 1, **sch. 1 para. 16(b)(iv)**

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F9 S. 285(10) inserted (1.8.1997) by 1997 c. 48, s. 47(5); S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)

Marginal Citations

M1 1989 c.45.

M2 1952 c.52.

286 Previous convictions: proof in support of substantive charge.

(1) Without prejudice to section 285(6) to (9) or, as the case may be, section 166 of this Act, where proof of a previous conviction [^{F10}including a conviction by a court in a member State of the European Union] is competent in support of a substantive charge, any such conviction or an extract of it shall, if—

- (a) it purports to relate to the accused and to be signed by the clerk of court having custody of the record containing the conviction; and
- (b) a copy of it has been served on the accused not less than 14 days before the [^{F11}relevant] diet,

be sufficient evidence of the application of the conviction to the accused unless, within seven days of the date of service of the copy on him, he serves notice on the prosecutor that he denies that it applies to him.

[^{F12}(1A) In subsection (1)(b) above, “the relevant diet” means—

- (a) in the case of proceedings in the High Court, the preliminary hearing;
- (b) in any other case, the trial diet.]

(2) A copy of a conviction or extract conviction served under subsection (1) above shall be served on the accused in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person who served the copy together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of the copy.

[^{F13}(3) The reference in subsection (1)(a) above to “the clerk of court having custody of the record containing the conviction” includes, in relation to a previous conviction by a court in [^{F14}a] member State of the European Union, a reference to any officer of that court or of that State having such custody.]

Textual Amendments

F10 Words in s. 286(1) inserted (31.12.2020) by The Criminal Justice (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/339), regs. 1(3), 13(16)(a) (with reg. 16)

F11 Word in s. 286(1)(b) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), Sch. para. 54(a); S.S.I. 2004/405, art. 2(1), Sch. 1 (with savings in arts. 3-5)

F12 S. 286(1A) inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), Sch. para. 54(b); S.S.I. 2004/405, art. 2(1), Sch. 1 (with savings in arts. 3-5)

F13 S. 286(3) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 57(3), 89; S.S.I. 2003/288, art. 2, Sch.

F14 Word in s. 286(3) substituted (31.12.2020) by The Criminal Justice (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/339), regs. 1(3), 13(16)(b) (with reg. 16)

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[^{F15}286A Proof of previous conviction by court in other member State

- (1) A previous conviction by a court in [^{F16}a] member State of the European Union may be proved against any person in any criminal proceedings by the production of evidence of the conviction and by showing that his fingerprints and those of the person convicted are the fingerprints of the same person.
- (2) A certificate—
 - (a) bearing—
 - (i) to have been sealed with the official seal of a Minister of the State in question; and
 - (ii) to contain particulars relating to a conviction extracted from the criminal records of that State; and
 - (b) including copies of fingerprints and certifying that those copies—
 - (i) are of fingerprints appearing from those records to have been taken from the person convicted on the occasion of the conviction, or on the occasion of his last conviction; and
 - (ii) would be admissible in evidence in criminal proceedings in that State as a record of the skin of that person's fingers,

shall be sufficient evidence of the conviction or, as the case may be, of the person's last conviction and of all preceding convictions and that the copies of the fingerprints included in the certificate are copies of the fingerprints of the person convicted.
- (3) A conviction bearing to have been—
 - (a) extracted from the criminal records of the State in question; and
 - (b) issued by an officer of that State whose duties include the issuing of such extracts,

shall be received in evidence without being sworn to by witnesses.
- (4) Subsection (9) of section 285 of this Act applies in relation to this section as it does in relation to that section.]

Textual Amendments

- F15** S. 286A inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **57(4)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F16** Word in s. 286A(1) substituted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), regs. 1(3), **13(17)** (with reg. 16)

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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.)