
Status: Point in time view as at 16/08/2013.

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Cross Heading: Transfer of rights of appeal of deceased person is up to date with all changes known to be in force on or before 10 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)*



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XIII

MISCELLANEOUS

[^{F1} Transfer of rights of appeal of deceased person]

Textual Amendments

F1 S. 303A and preceding cross-heading inserted (1.8.1997 for specified purposes and otherwise 1.4.1999) by 1997 c. 48, s. 20; S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5); S.I. 1999/652, art. 2, Sch.(subject to savings and transitional provisions in art. 3)

303A [^{F2} Transfer of rights of appeal of deceased person.]

- (1) Where a person convicted of an offence has died, any person may, subject to the provisions of this section, apply to the High Court for an order authorising him to institute or continue any appeal which could have been or has been instituted by the deceased.
- (2) An application for an order under this section may be lodged with the Clerk of Justiciary within three months of the deceased's death or at such later time as the Court may, on cause shown, allow.
- (3) Where the Commission makes a reference to the High Court under section 194B of this Act in respect of a person who is deceased, any application under this section must be made within one month of the reference.
- (4) Where an application is made for an order under this section and the applicant—
 - (a) is an executor of the deceased; or
 - (b) otherwise appears to the Court to have a legitimate interest,the Court shall make an order authorising the applicant to institute or continue any appeal which could have been instituted or continued by the deceased; and, subject

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to the provisions of this section, any such order may include such ancillary or supplementary provision as the Court thinks fit.

- (5) The person in whose favour an order under this section is made shall from the date of the order be afforded the same rights to carry on the appeal as the deceased enjoyed at the time of his death and, in particular, where any time limit had begun to run against the deceased the person in whose favour an order has been made shall have the benefit of only that portion of the time limit which remained unexpired at the time of the death.
- (6) In this section “appeal” includes any sort of application, whether at common law or under statute, for the review of any conviction, penalty or other order made in respect of the deceased in any criminal proceedings whatsoever.

Textual Amendments

- F2** [S. 303A](#) and preceding cross-heading inserted (1.8.1997 for specified purposes and otherwise 1.4.1999) by [1997 c. 48, s. 20](#); [S.I. 1997/1712, art. 3, Sch.](#) (subject to [arts. 4, 5](#)); [S.I. 1999/652, art. 2, Sch.](#) (subject to savings and transitional provisions in [art. 3](#))

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