



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIV

#### GENERAL

#### **304 Criminal Courts Rules Council.**

- (1) There shall be established a body, to be known as the Criminal Courts Rules Council (in this section referred to as “the Council”) which shall have the functions conferred on it by subsection (9) below.
- (2) The Council shall consist of—
  - (a) the Lord Justice General, the Lord Justice Clerk and the Clerk of Justiciary;
  - (b) a further Lord Commissioner of Justiciary appointed by the Lord Justice General;
  - (c) the following persons appointed by the Lord Justice General after such consultation as he considers appropriate—
    - (i) two sheriffs;
    - (ii) two members of the Faculty of Advocates;
    - (iii) two solicitors;
    - (iv) one sheriff clerk; and
    - (v) one person appearing to him to have a knowledge of the procedures and practices of the [F1JP court] ;
  - (d) two persons appointed by the Lord Justice General after consultation with the Lord Advocate, at least one of whom must be a procurator fiscal;
  - (e) two persons appointed by the Lord Justice General after consultation with the Secretary of State, at least one of whom must be a person appearing to the Lord Justice General to have—
    - (i) a knowledge of the procedures and practices of the courts exercising criminal jurisdiction in Scotland; and
    - (ii) an awareness of the interests of victims of crime and of witnesses in criminal proceedings; and

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- (f) any persons appointed under subsection (3) below.
- (3) The Lord Justice General may appoint not more than two further persons, and the Secretary of State may appoint one person, to membership of the Council.
- (4) The chairman of the Council shall be the Lord Justice General or such other member of the Council, being a Lord Commissioner of Justiciary, as the Lord Justice General may nominate.
- (5) The members of the Council appointed under paragraphs (b) to (f) of subsection (2) above shall, so long as they retain the respective qualifications mentioned in those paragraphs, hold office for three years and be eligible for reappointment.
- (6) Any vacancy in the membership of the Council by reason of the death or demission of office, prior to the expiry of the period for which he was appointed, of a member appointed under any of paragraphs (b) to (f) of subsection (2) above shall be filled by the appointment by the Lord Justice General or, as the case may be, the Secretary of State, after such consultation as is required by the paragraph in question, of another person having the qualifications required by that paragraph, and a person so appointed shall hold office only until the expiry of that period.
- (7) The Council shall meet—
- (a) at intervals of not more than 12 months; and
  - (b) at any time when summoned by the chairman or by three members of the Council,
- but shall, subject to the foregoing, have power to regulate the summoning of its meetings and the procedure at such meetings.
- (8) At any meeting of the Council six members shall be a quorum.
- (9) The functions of the Council shall be—
- (a) to keep under general review the procedures and practices of the courts exercising criminal jurisdiction in Scotland (including any matters incidental or relating to those procedures or practices); and
  - (b) to consider and comment on any draft Act of Adjournal submitted to it by the High Court, which shall, in making the Act of Adjournal, take account to such extent as it considers appropriate of any comments made by the Council under this paragraph.
- (10) In the discharge of its functions under subsection (9) above the Council may invite representations on any aspect of the procedures and practices of the courts exercising criminal jurisdiction in Scotland (including any matters incidental or relating to those procedures or practices) and shall consider any such representations received by it, whether or not submitted in response to such an invitation.

#### Textual Amendments

- F1** Words in s. 304(2)(c)(v) substituted (10.3.2008 and 2.6.2008 for certain purposes, otherwise 8.12.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 26\(t\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.

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### 305 Acts of Adjournal.

- (1) The High Court may by Act of Adjournal—
  - (a) regulate the practice and procedure in relation to criminal procedure;
  - (b) make such rules and regulations as may be necessary or expedient to carry out the purposes and accomplish the objects of any enactment (including an enactment in this Act) in so far as it relates to criminal procedure;
  - (c) subject to subsection (5) below, to fix and regulate the fees payable in connection with summary criminal proceedings; and
  - (d) to make provision for the application of sums paid under section 220 of this Act and for any matter incidental thereto.
- (2) The High Court may by Act of Adjournal modify, amend or repeal any enactment (including an enactment in this Act) in so far as that enactment relates to matters with respect to which an Act of Adjournal may be made under subsection (1) above.
- (3) No rule, regulation or provision which affects the governor or any other officer of a prison shall be made by Act of Adjournal except with the consent of the Secretary of State.
- (4) The Clerk of Justiciary may, with the sanction of the Lord Justice General and the Lord Justice Clerk, vary the forms set out in an Act of Adjournal made under subsection (1) above or any other Act whether passed before or after this Act from time to time as may be found necessary for giving effect to the provisions of this Act relating to solemn procedure.
- (5) Nothing in paragraph (c) of subsection (1) above shall empower the High Court to make any regulation which the Secretary of State is empowered to make by the <sup>M1</sup>Courts of Law Fees (Scotland) Act 1895.

#### Modifications etc. (not altering text)

- C1** S. 305 modified (27.7.2001) by 2001 asp 7, s. 4, Sch. paras. 68, 77 (with Sch. para. 65); S.S.I. 2001/274, art. 3(1)(b)(c)(d)
- C2** S. 305 modified (27.7.2001) by 1993 c. 9, s. 10(2U) (as substituted by 2001 asp 7, s. 3(1)(b); S.S.I. 2001/274, art. 3(1)(a))
- C3** S. 305 modified (27.7.2001) by 2001 asp 7, s. 4, Sch. para. 21 (with Sch. para. 18); S.S.I. 2001/274, art. 3(1)(b)(c)

#### Marginal Citations

- M1** 58 & 59 Vict. c.14.

### 306 Information for financial and other purposes.

- (1) The Secretary of State shall in each year publish such information as he considers expedient for the purpose of—
  - (a) enabling persons engaged in the administration of criminal justice to become aware of the financial implications of their decisions; or
  - (b) facilitating the performance by such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.

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- (2) Publication under subsection (1) above shall be effected in such manner as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

### 307 Interpretation.

- (1) In this Act, unless the context otherwise requires—

[<sup>F2</sup> “ alcohol treatment requirement ” has the meaning given in section 227V(1); ]

[<sup>F3</sup> .....

[<sup>F4</sup> “ assessment order ” has the meaning given by section 52D of this Act; ]  
 “bail” means release of an accused or an appellant on conditions, or conditions imposed on bail, as the context requires;

[<sup>F5</sup> .....

“child”, except in section 46(3) of and Schedule 1 to this Act, has the meaning assigned to that expression for the purposes of [<sup>F6</sup>section 199 of the Children’s Hearings (Scotland) Act 2011 (asp 1)]

[<sup>F7</sup> “ child witness ” shall be construed in accordance with section 271(1) (a) of this Act; ]

“children’s hearing” [<sup>F8</sup>is to be construed in accordance with section 5 of the Children’s Hearings (Scotland) Act 2011 (asp 1)]

“Clerk of Justiciary” shall include assistant clerk of justiciary and shall extend and apply to any person duly authorised to execute the duties of Clerk of Justiciary or assistant clerk of justiciary;

[<sup>F9</sup> “ the Commission ” has the meaning given by section 194A(1) of this Act; ]

“commit for trial” means commit until liberation in due course of law;

[<sup>F10</sup> “ community payback order ” means a community payback order (within the meaning of section 227A(2)) imposed under section 227A(1) or (4) or 227M(2); ]

[<sup>F3</sup> .....

[<sup>F11</sup> “ compensation requirement ” has the meaning given in section 227H(1); ]

“complaint” includes a copy of the complaint laid before the court;

[<sup>F12</sup> “ compulsion order ” has the meaning given by section 57A of this Act; ]

[<sup>F13</sup> “ compulsory supervision order ” has the meaning given by section 83 of the Children’s Hearings (Scotland) Act 2011 (asp 1),]

[<sup>F14</sup> “ conduct requirement ” has the meaning given in section 227W(1); ]

“constable” has the same meaning as in the [<sup>F15</sup>Police and Fire Reform (Scotland) Act 2012] ;

[<sup>F16</sup> “ conviction ”, in relation to a previous conviction by a court outside Scotland, means a final decision of a criminal court establishing guilt of a criminal offence; ]

“court of summary jurisdiction” means a court of summary criminal jurisdiction;

“court of summary criminal jurisdiction” includes the sheriff court and [<sup>F17</sup>JP court];

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“crime” means any crime or offence at common law or under any Act of Parliament whether passed before or after this Act, and includes an attempt to commit any crime or offence;

[<sup>F18</sup> “ devolution issue ” has the same meaning as in Schedule 6 to the Scotland Act 1998; ]

“diet” includes any continuation of a diet;

[<sup>F19</sup> “ drug treatment and testing order ” has the meaning assigned to it in section 234B(2) of this Act; ]

[<sup>F20</sup> “ drug treatment requirement ” has the meaning given in section 227U(1); ]

“enactment” includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

“examination of facts” means an examination of facts held under section 55 of this Act;

“existing” means existing immediately before the commencement of this Act;

“extract conviction” and “extract of previous conviction” include certified copy conviction, certificate of conviction, and any other document lawfully issued from any court of justice of the United Kingdom as evidence of a conviction [<sup>F21</sup>and also include a conviction extracted and issued as mentioned in section 286A(3)(a) and (b) of this Act];

“fine” includes—

- (a) any pecuniary penalty, (but not a pecuniary forfeiture or pecuniary compensation); and
- (b) an instalment of a fine;

“governor” means, in relation to a contracted out prison within the meaning of section 106(4) of the <sup>M2</sup>Criminal Justice and Public Order Act 1994, the director of the prison;

“guardian”, in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child;

“guardianship order” has the meaning assigned to it by section 58 of this Act;

“High Court” and “Court of Justiciary” shall mean “High Court of Justiciary” and shall include any court held by the Lords Commissioners of Justiciary, or any of them;

“hospital” means—

- (a) any hospital vested in the Secretary of State under the <sup>M3</sup>National Health Service (Scotland) Act 1978;
- (aa) [<sup>F22</sup>any hospital managed by a National Health Service Trust established under section 12A of that Act;]
- (b) any private hospital [<sup>F23</sup>as defined in section 12(2)] of the <sup>M4</sup>Mental Health (Scotland) Act 1984; and
- (c) any State hospital;

[<sup>F24</sup> “ hospital direction ” has the meaning assigned to it by section 59A(1) of this Act; ]

<sup>F25</sup>

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“impose detention” or “impose imprisonment” means pass a sentence of detention or imprisonment, as the case may be, or make an order for committal in default of payment of any sum of money or for contempt of court;

“indictment” includes any indictment whether in the sheriff court or the High Court framed in the form set out in an Act of Adjournment or as nearly as may be in such form;

[<sup>F26</sup> “ interim compulsion order ” has the meaning given by section 53 of this Act; ]

[<sup>F27</sup> “interim compulsory supervision order” has the meaning given by section 86 of the Children’s Hearings (Scotland) Act 2011 (asp 1),]

[<sup>F28</sup> “ JP court ” means a justice of the peace court; ]

“judge”, in relation to solemn procedure, means a judge of a court of solemn criminal jurisdiction and, in relation to summary procedure, means any sheriff or any judge of a [<sup>F17</sup>JP court];

“justice” includes the sheriff and any stipendiary magistrate or justice of the peace;

[<sup>F29</sup> “ justice of the peace ” means a justice of the peace appointed under section 67 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); ]

“legalised police cells” has the like meaning as in the <sup>M5</sup>Prisons (Scotland) Act 1989;

“local authority” has the meaning assigned to it by section 1(2) of the <sup>M6</sup>Social Work (Scotland) Act 1968;

[<sup>F30</sup> “ local probation board ” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 ]

“Lord Commissioner of Justiciary” includes Lord Justice General and Lord Justice Clerk;

[<sup>F31</sup> “ mental disorder ” has the meaning given by section 328(1) of the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13);

[<sup>F32</sup> “ mental health treatment requirement ” has the meaning given in section 227R(1); ]

“ Mental Welfare Commission ” means the Mental Welfare Commission for Scotland; ]

“offence” means any act, attempt or omission punishable by law;

[<sup>F33</sup> “ offender supervision requirement ” has the meaning given in section 227G(1); ]

“officer of law” includes, in relation to the service and execution of any warrant, citation, petition, indictment, complaint, list of witnesses, order, notice, or other proceeding or document—

- (a) any macer, messenger-at-arms, sheriff officer or other person having authority to execute a warrant of the court;
- (b) any constable;
- (ba) [<sup>F34</sup>subject to subsection (1A) below, an officer of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs;]
- (bb) [<sup>F35</sup>subject to subsection (1AA) below, an immigration officer acting with the authority (which may be general or specific) of the Secretary of State;]

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- (c) [<sup>F36</sup>any person who is appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012 who is either authorised by the chief constable of the Police Service of Scotland in relation to such service and execution or is a police custody and security officer;]
- (d) where the person upon whom service or execution is effected is in prison at the time of service on him, any prison officer; and
- (e) any person or [<sup>F37</sup>class of persons] authorised in that regard for the time being by the Lord Advocate or by the Secretary of State;

“order” means any order, byelaw, rule or regulation having statutory authority;

[<sup>F38</sup> “ order for lifelong restriction ” means an order under section 210F(1) of this Act; ]

[<sup>F39</sup>“organisation” means—

- (a) a body corporate;
- (b) an unincorporated association;
- (c) a partnership;
- (d) a body of trustees;
- (e) a government department;
- (f) a part of the Scottish Administration;
- (g) any other entity which is not an individual;]

“patient” means a person suffering or appearing to be suffering from mental disorder;

“place of safety”, in relation to a person not being a child, means any police station, prison or remand centre, or any hospital the board of management of which are willing temporarily to receive him, and in relation to a child [<sup>F40</sup>has the meaning given by section 202(1) of the Children’s Hearings (Scotland) Act 2011 (asp 1).]

[<sup>F41</sup>“postal operator” has the meaning assigned to it by [<sup>F42</sup>section 27 of the Postal Services Act 2011] .]

[<sup>F43</sup> “ preliminary hearing ” shall be construed in accordance with section 66(6)(b) of this Act and, where in any case a further preliminary hearing is held or to be held under this Act, includes the diet consisting of that further preliminary hearing; ]

[<sup>F44</sup> “ preliminary issue ” shall be construed in accordance with section 79(2)(b) of this Act; ]

[<sup>F45</sup>“ preliminary plea ” shall be construed in accordance with section 79(2) (a) of this Act; ]

“the prescribed sum” has the meaning given by section 225(8) of this Act;

“prison” does not include a naval, military or air force prison;

“prison officer” and “officer of a prison” means, in relation to a contracted out prison within the meaning of section 106(4) of the <sup>M7</sup>Criminal Justice and Public Order Act 1994, a prisoner custody officer within the meaning of section 114(1) of that Act;

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“procurator fiscal” means the procurator fiscal for a sheriff court district, and includes assistant procurator fiscal and procurator fiscal depute and any person duly authorised to execute the duties of the procurator fiscal;

[<sup>F46</sup> “ programme requirement ” has the meaning given in section 227P(1); ]

“prosecutor”—

(a) for the purposes of proceedings other than summary proceedings, includes Crown Counsel, procurator fiscal, any other person prosecuting in the public interest and any private prosecutor; and

(b) for the purposes of summary proceedings, includes procurator fiscal, and any other person prosecuting in the public interest and complainer and any person duly authorised to represent or act for any public prosecutor;

“remand” means an order adjourning the proceedings or continuing the case and giving direction as to detention in custody or liberation during the period of adjournment or continuation and references to remanding a person or remanding in custody or on bail shall be construed accordingly;

“remand centre” has the like meaning as in the <sup>M8</sup>Prisons (Scotland) Act 1989;

[<sup>F47</sup> “ registered psychologist ” means a person registered in the part of the register maintained under [<sup>F48</sup>the Health and Social Work Professions Order 2001] which relates to practitioner psychologists; ]

<sup>F49</sup>

<sup>F50</sup>

[<sup>F51</sup> “ residence requirement ” has the meaning given in section 227Q(1); ]

[<sup>F52</sup> “ responsible officer ”, in relation to a community payback order, is to be construed in accordance with section 227C; ]

[<sup>F53</sup> “ restricted movement requirement ” has the meaning given in section 227ZF(1); ]

“restriction order” has the meaning assigned to it by section 59 of this Act;

[<sup>F54</sup> “ risk assessment order ” means an order under section 210B(2) of this Act; ]

[<sup>F55</sup> “ risk assessment report ” has the meaning given by section 210B(3)(a) of this Act; ]

“sentence”, whether of detention or of imprisonment, means a sentence passed in respect of a crime or offence and does not include an order for committal in default of payment of any sum of money or for contempt of court;

“sheriff clerk” includes sheriff clerk depute, and extends and applies to any person duly authorised to execute the duties of sheriff clerk;

“sheriff court district” extends to the limits within which the sheriff has jurisdiction in criminal matters whether by statute or at common law;

“State hospital” has the meaning assigned to it in Part VIII of the Mental Health (Scotland) Act 1984;

“statute” means any Act of Parliament, public general, local, or private, and any Provisional Order confirmed by Act of Parliament;

[<sup>F56</sup> “ stipendiary magistrate ” means a stipendiary magistrate appointed under section 74 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); ]

<sup>F57</sup>

...

“training school order” has the same meaning as in the Social Work (Scotland) Act 1968;



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[<sup>F58</sup> “ treatment order ” has the meaning given by section 52M of this Act; ]

[<sup>F59</sup> “unfit for trial” has the meaning given by section 53F of this Act;]

[<sup>F60</sup> “the unified citation provisions” means section 216(5) and (6)(a) and (b) of this Act;]

[<sup>F61</sup> “ unpaid work or other activity requirement ” has the meaning given in section 227I(1), and “level 1 unpaid work or other activity requirement” and “level 2 unpaid work or other activity requirement” are to be construed in accordance with section 227I(5) and (6) respectively; ]

[<sup>F62</sup> “ vulnerable witness ” shall be construed in accordance with section 271(1) of this Act; ]

“witness” includes haver;

“young offenders institution” has the like meaning as in the <sup>M9</sup>Prisons (Scotland) Act 1989.

[<sup>F63</sup>(1A) The inclusion of officers of Revenue and Customs as “officers of law” shall not have effect in relation to any matter specified in—

(a) section 54(4)(b) or (f) of; or

(b) paragraphs 3, 7, 10, 13 to 15, 19 or 24 to 29 of Schedule 1 to,

the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters).

[<sup>F64</sup>(1AA) The inclusion of immigration officers as “officers of law” shall have effect only in relation to immigration offences and nationality offences (within the meaning of Part 3 of the Criminal Law (Consolidation) (Scotland) Act 1995).]

(1B) In any proceedings (whether civil or criminal) under or arising from [<sup>F65</sup>this Act—

(a) a certificate of the Commissioners for Her Majesty's Revenue and Customs that an officer of Revenue of Customs, or

(b) a certificate of the Secretary of State that an immigration officer,

had the authority] to exercise a power or function conferred by a provision of this Act shall be conclusive evidence of that fact.]

(2) References in this Act to a court do not include references to a [<sup>F66</sup>service court] ; and nothing in this Act shall be construed as affecting the punishment which may be awarded by a [<sup>F66</sup>service court][<sup>F67</sup>for an offence under section 42 of the Armed Forces Act 2006.]

[<sup>F68</sup>(2A) In subsection (2), “ service court ” means—

(a) the Court Martial;

(b) the Summary Appeal Court;

(c) the Court Martial Appeal Court; or

(d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.]

(3) <sup>F69</sup> .....

(4) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution.

[<sup>F70</sup>(5) Except where the context requires otherwise—

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- (a) any reference in this Act to a previous conviction is to be construed as a reference to a previous conviction by a court in any part of the United Kingdom or in any other member State of the European Union;
  - (b) any reference in this Act to a previous sentence is to be construed as a reference to a previous sentence passed by any such court;
  - (c) any reference to a previous conviction of a particular offence is to be construed, in relation to a previous conviction by a court outside Scotland, as a reference to a previous conviction of an equivalent offence; and
  - (d) any reference to a previous sentence of a particular kind is to be construed, in relation to a previous sentence passed by a court outside Scotland, as a reference to a previous sentence of an equivalent kind.]
- (6) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment, including this Act, upon the imprisonment of offenders of his age.
- (7) Without prejudice to section 46 of this Act, where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.
- (8) References in this Act to findings of guilty and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.

#### Textual Amendments

- F2** Words in s. 307(1) inserted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F3** Definitions in s. 307(1) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(ii)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F4** S. 307(1): definition of "assessment order" inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 333(1), 333(2)-(4), **Sch. 4 para. 8(16)(a)**; S.S.I. 2005/161, **art. 3**
- F5** S. 307: definition of "chartered psychologist" omitted (1.7.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 4(2), **Sch. 5 para. 3(b)** (with arts. 9, 10); S.I. 2009/1357, **art. 2(d)**
- F6** Words in s. 307(1) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 10(8)(a)**
- F7** Definition of "child witness" in s. 307(1) inserted (2.7.2007 for certain purposes and otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 1(2)**, 25; S.S.I. 2007/329, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F8** Words in s. 307(1) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Primary Legislation\) Order 2013 \(S.S.I. 2013/211\)](#), art. 1, **sch. 1 para. 10(8)(b)**
- F9** Definition in s. 307(1) inserted (1.4.1999) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(34)(a)**; S.I. 1999/652, **art. 2**, **Sch.** (subject to savings and transitional provisions in art. 3)
- F10** Words in s. 307(1) inserted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F11** Words in s. 307(1) inserted (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)

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- F12** S. 307(1): definition of "compulsion order" inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 333(1), 333(2)-(4), **Sch. 4 para. 8(16)(b)**; S.S.I. 2005/161, **art. 3**
- F13** Definition in s. 307(1) inserted (24.6.2013) by The Childrens Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 1 para. 10(8)(c)**
- F14** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F15** Words in s. 307(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 12(10)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F16** Words in s. 307(1) inserted (13.12.2010 for all purposes in respect of offences committed on or after this date) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 71(1), 206(1), **Sch. 4 para. 8(a)**; S.S.I. 2010/413, **art. 2**, Sch.
- F17** S. 307(1): words in the definition of "court of summary criminal jurisdiction" and "judge" substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 25(a)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F18** Definition in s. 307(1) inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 32(3)** (with s. 126-(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**
- F19** Definition in s. 307(1) inserted (30.9.1998) by 1998 c. 37, s. 95(2); S.I. 1998/2327, **art. 2(1)(s)** (subject to arts. 5-8)
- F20** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F21** S. 307(1): words in the definition of "extract conviction" and "extract of previous conviction" added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 57(5)(a), 89; S.S.I. 2003/288, **art. 2**, Sch.
- F22** S. 307(1): para. (aa) in definition of "hospital" inserted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(34)(b)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F23** Words in s. 307(1) substituted (1.10.2001) by 2001 asp 8, s. 79, **Sch. 3 para. 20**; S.S.I. 2001/304, **art. 2(1)(b)(d)**
- F24** Definition in s. 307(1) inserted (1.1.1998) by 1997 c. 48, s. 6(5); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F25** S. 307(1): definition of "hospital order" repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(2)(3), 333(2)-(4), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3**
- F26** S. 307(1): definition of "interim compulsion order" inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 333(1), 333(2)-(4), **Sch. 4 para. 8(16)(c)**; S.S.I. 2005/161, **art. 3**
- F27** Definition in s. 307(1) inserted (24.6.2013) by The Childrens Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 1 para. 10(8)(d)**
- F28** S. 307(1): definition of "JP court" inserted (10.3.2008) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 25(c)**; S.S.I. 2008/42, **art. 3**, Sch.
- F29** S. 307(1): definition of "justice of the peace" substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 25(b)**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F30** S. 307(1): definition of "local probation board" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 126**; S.I. 2001/919, **art. 2(f)(ii)**
- F31** S. 307(1): definitions of "mental disorder" and "Mental Welfare Commission" inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 333(1), 333(2)-(4), **Sch. 4 para. 8(16)(d)**; S.S.I. 2005/161, **art. 3**
- F32** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)

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- F33** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F34** S. 307(1): paragraph (ba) in the definition of "officer of law" substituted (1.12.2007) by Finance Act 2007 (c. 11), s. 85, **Sch. 23 paras. 9,14**; S.I. 2007/3166, **art. 3(b)**
- F35** Words in s. 307(1) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(13)(a)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, **art. 4(g)**
- F36** Words in s. 307(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 12(10)(b)**; S.S.I. 2013/51, **art. 2** (with transitional provisions and savings in S.S.I. 2013/121)
- F37** S. 307(1): words in para. (e) of the definition of "officer of law" substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 124(b)**; S.I. 1998/2327, **arts. 2(1)(y)(2)(kk)** (subject to arts. 5-8)
- F38** S. 307(1): definition of "order for lifelong restriction" inserted (19.6.2006 for certain purposes and otherwise prosp.) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, **Sch. 1 para. 2(7)**; S.S.I. 2006/332, **art. 2(1)** (subject to art. 2(2))
- F39** Words in s. 307(1) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 65**, 206(1); S.S.I. 2011/178, **art. 2**, sch.
- F40** Words in s. 307(1) substituted (24.6.2013) by The Childrens Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), **art. 1**, **sch. 1 para. 10(8)(e)**
- F41** Words in s. 307(1) inserted (26.3.2001) by S.I. 2001/1149, s. 3(1), **Sch. para. 104(7)** (subject to art. 1(3))
- F42** Words in s. 307(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 146**; S.I. 2011/2329, **art. 3**
- F43** S. 307(1): definition of "preliminary hearing" inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), **Sch. para. 57**; S.S.I. 2004/405, **art. 2(1)**, Sch. 1
- F44** S. 307(1): definition of "preliminary issue" inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), **Sch. para. 57**; S.S.I. 2004/405, **art. 2(1)**, Sch. 1
- F45** S. 307(1): definition of "preliminary plea" inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), **Sch. para. 57**; S.S.I. 2004/405, {art. 2(1)}, Sch. 1
- F46** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F47** S. 307: definition of "registered psychologist" inserted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), **art. 4(2)**, **Sch. 5 para. 3(b)** (with arts. 9, 10); S.I. 2009/1357, **art. 2(d)**
- F48** Words in s. 307(1) substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 213(8)(a)**, 306(4) (with s. 230(6)); S.I. 2012/1319, **art. 2(4)**
- F49** S. 307(1): definition of "residential establishment" repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(2)(3), 333(2)-(4), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3**
- F50** S. 307(1): definition of "responsible medical officer" repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(2)(3), 333(2)-(4), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3**
- F51** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F52** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F53** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F54** S. 307(1): definition of "risk assessment order" inserted (19.6.2006 for certain purposes and otherwise prosp.) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, **Sch. 1 para. 2(7)**; S.S.I. 2006/332, **art. 2(1)** (subject to art. 2(2))
- F55** S. 307(1): definition of "risk assessment report" inserted (19.6.2006 for certain purposes and otherwise prosp.) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, **Sch. 1 para. 2(7)**; S.S.I. 2006/332, **art. 2(1)** (subject to art. 2(2))
- F56** S. 307(1): definition of "stipendiary magistrate" inserted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform)

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- (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 25(a)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F57** Definition in s. 307(1) repealed (24.6.2013) by The Childrens Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 2**
- F58** S. 307(1): definition of "treatment order" inserted (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 333(1), 333(2)-(4), **Sch. 4 para. 8(16)(e)**; S.S.I. 2005/161, **art. 3**
- F59** Words in s. 307(1) inserted (with application in accordance with art. 3 of the commencing S.S.I.) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 7 para. 62**; S.S.I. 2012/160, art. 3, sch.
- F60** S. 307(1): definition of "the unified citation provisions" inserted (27.10.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 60(2)**, 89; S.S.I. 2003/475, **art. 2**, Sch.
- F61** Words in s. 307(1) inserted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F62** Definition of "vulnerable witness" in s. 307(1) inserted (2.7.2007 for certain purposes and 1.4.2008) by Vulnerable Witnesses (Scotland) Act 2004 (asp 3), **ss. 1(2)**, 25; S.S.I. 2007/329, **art. 2(1)**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F63** S. 307(1A)(1B) inserted (1.12.2007) by Finance Act 2007 (c. 11), s. 85, **Sch. 23 paras. 10**, 14; S.I. 2007/3166, **art. 3(b)**
- F64** S. 307(1AA) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(13)(b)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(g)
- F65** Words in s. 307(1B) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(13)(c)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(g)
- F66** Words in s. 307(2) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 133(a)(i)**; S.I. 2009/812, **art. 3**; S.I. 2009/1167, **art. 4** (with transitional provisions in S.I. 2009/1059)
- F67** Words in s. 307(2) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 133(a)(ii)**; S.I. 2009/812, **art. 3**; S.I. 2009/1167, **art. 4** (with transitional provisions in S.I. 2009/1059)
- F68** S. 307(2A) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 133(b)**; S.I. 2009/812, **art. 3**; S.I. 2009/1167, **art. 4** (with transitional provisions in S.I. 2009/1059)
- F69** S. 307(3) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 28(b)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F70** S. 307(5) substituted (13.12.2010 for all purposes in respect of offences committed on or after this date) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 71(1), 206(1), **Sch. 4 para. 8(b)**; S.S.I. 2010/413, **art. 2**, Sch.

#### Modifications etc. (not altering text)

- C4** S. 307(2) modified (24.4.2009 for certain purposes and otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 205, **Sch. 1 para. 35**

#### Marginal Citations

- M2** 1994 c.33.  
**M3** 1978 c.29.  
**M4** 1984 c.36.  
**M5** 1989 c.45.  
**M6** 1968 c.49.  
**M7** 1994 c.33.  
**M8** 1989 c.45.  
**M9** 1989 c.45.

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### 308 Construction of enactments referring to detention etc.

In any enactment—

- (a) any reference to a sentence of imprisonment as including a reference to a sentence of any other form of detention shall be construed as including a reference to a sentence of detention under section 207 of this Act; and
- (b) any reference to imprisonment as including any other form of detention shall be construed as including a reference to detention under that section.

### [<sup>F71</sup>308A Expressions relating to electronic proceedings

- (1) In this Act, an “electronic complaint” is a complaint in electronic form which is capable of being—
  - (a) transmitted by means of electronic communication;
  - (b) kept in legible form.
- (2) In this Act, unless the context otherwise requires—
 

“electronic communication” is to be construed in accordance with section 15(1) of the Electronic Communications Act 2000 (c. 7);

“electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document.
- (3) The Scottish Ministers may by order modify the meaning of “electronic signature” provided for in subsection (2) above for the purpose of such provisions of this Act as are specified in the order.
- (4) An order under subsection (3) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### Textual Amendments

**F71** S. 308A inserted (10.12.2007 for specified purposes, 1.11.2012 in so far as not already in force) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\), ss. 41\(2\), 84\(1\)](#); [S.S.I. 2007/479, art. 3, sch.](#); [S.S.I. 2012/274, art. 2, sch.](#)

### 309 Short title, commencement and extent.

- (1) This Act may be cited as the Criminal Procedure (Scotland) Act 1995.
- (2) This Act shall come into force on 1 April 1996.
- (3) Subject to subsections (4) and (5) below, this Act extends to Scotland only.
- (4) The following provisions of this Act and this section extend to England and Wales—
  - section 44;
  - section 47;
  - section 209(3) and (7);
  - section 234(4) to (11);
  - section 244;
  - section 252 for the purposes of the construction mentioned in subsection (1) of that subsection;

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section [<sup>F72</sup>303(4) to (7)].

[<sup>F73</sup>Part 1 of Schedule 13 (and section 227ZO)]

- (5) The following provisions of this Act and this section extend to Northern Ireland—  
section 44;  
section 47;  
section 244;  
section 252 for the purposes of the construction mentioned in subsection (1) of that subsection;  
section [<sup>F74</sup>303(4) to (7)].  
[<sup>F75</sup>Part 2 of Schedule 13 (and section 227ZO)]
- (6) Section 297(3) and (4) of this Act and this section also extend to the Isle of Man.

#### Textual Amendments

- F72** Words in s. 309(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 32(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F73** Words in s. 309(4) inserted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, **Sch. para. 8** (with art. 4(4))
- F74** Words in s. 309(5) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 32(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F75** Words in s. 309(5) inserted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, **Sch. para. 9** (with art. 4(4))

**Status:**

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**Changes to legislation:**

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