



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Verdict and conviction*

#### **101 Previous convictions: solemn proceedings.**

- (1) Previous convictions against the accused shall not [<sup>F1</sup>, subject to subsection (2) below and section 275A(2) of this Act,] be laid before the jury, nor shall reference be made to them in presence of the jury before the verdict is returned.
- (2) Nothing in subsection (1) above shall prevent the prosecutor—
- (a) asking the accused questions tending to show that he has been convicted of an offence other than that with which he is charged, where he is entitled to do so under section 266 of this Act; or
  - (b) leading evidence of previous convictions where it is competent to do so under section 270 of this Act,
- and nothing in this section or in section 69 of this Act shall prevent evidence of previous convictions being led in any case where such evidence is competent in support of a substantive charge.
- (3) Previous convictions shall not [<sup>F2</sup>, subject to section 275A(1) of this Act,] be laid before the presiding judge until the prosecutor moves
- [<sup>F3</sup>(a)] for sentence [<sup>F4</sup>; or]
  - [<sup>F5</sup>(b) for a risk assessment order (or the court at its own instance proposes to make such an order)],
- and in that event the prosecutor shall lay before the judge a copy of the notice referred to in subsection (2) or (4) of section 69 of this Act.

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**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 101 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

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[<sup>F6</sup>(3A) Where, under paragraph (b) of subsection (3) above, the prosecutor lays previous convictions before the judge, he shall also provide the judge with such details regarding the offences in question as are available to him.]

(4) On the conviction of the accused it shall be competent for the court, subject to subsection (5) below, to amend a notice of previous convictions so laid by deletion or alteration for the purpose of curing any error or defect.

<sup>F7</sup>(5) . . . . .

(6) Any conviction which is admitted in evidence by the court shall be entered in the record of the trial.

(7) Where a person is convicted of an offence, the court may have regard to any previous conviction in respect of that person in deciding on the disposal of the case.

(8) Where any such intimation as is mentioned in section 69 of this Act is given by the accused, it shall be competent to prove any previous conviction included in a notice under that section in the manner specified in section 285 [<sup>F8</sup>, or as the case may be 286A,] of this Act, and the provisions of the [<sup>F9</sup>section in question] shall apply accordingly.

[<sup>F10</sup>(9) This section, except subsection (2) above, applies in relation to the alternative disposals mentioned in subsection (10) below as it applies in relation to previous convictions.

(10) Those alternative disposals are—

(a) a—

(i) fixed penalty under section 302(1) of this Act;

(ii) compensation offer under section 302A(1) of this Act,

that has been accepted (or deemed to have been accepted) by the accused in the two years preceding the date of an offence charged;

(b) a work order under section 303ZA(6) of this Act that has been completed in the two years preceding the date of an offence charged[<sup>F11</sup>;

(c) a restoration notice given under subsection (4) of section 20A of the Nature Conservation (Scotland) Act 2004 (asp 6) in respect of which the accused has given notice of intention to comply under subsection (5) of that section in the two years preceding the date of an offence charged.]

(11) Nothing in this section or in section 69 of this Act shall prevent the prosecutor, following conviction of an accused of an offence—

(a) to which a fixed penalty offer made under section 302(1) of this Act related;

(b) to which a compensation offer made under section 302A(1) of this Act related;  
<sup>F12</sup>  
...

(c) to which a work offer made under section 303ZA(1) of this Act related[<sup>F13</sup>; or

(d) to which a restoration notice given under section 20A(4) of the Nature Conservation (Scotland) Act 2004 (asp 6) related,]

providing the judge with information about the making of the offer (including the terms of the offer) [<sup>F14</sup>or, as the case may be, about the giving of the notice (including the terms of the notice).]]

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[<sup>F15</sup>(12) Any reference in this section to a previous conviction includes, where relevant, a conviction by a court in any part of the United Kingdom or in any member State of the European Union.]

#### Textual Amendments

- F1** Words in s. 101(1) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), [s. 10\(1\)\(a\)](#); S.S.I. 2002/443, [art. 3](#) (with [art. 4\(5\)](#))
- F2** Words in s. 101(3) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), [s. 10\(1\)\(b\)](#); S.S.I. 2002/443, [art. 3](#) (with [art. 4\(5\)](#))
- F3** Words in s. 101(3) renumbered as s. 101(3)(a) (19.6.2006) by virtue of [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 1(2), 89, [Sch. 1 para. 2\(3\)\(a\)](#); S.S.I. 2006/332, [art. 2\(1\)\(2\)](#)
- F4** Word in s. 101(3) inserted (19.6.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 1(2), 89, [Sch. 1 para. 2\(3\)\(a\)](#); S.S.I. 2006/332, [art. 2\(1\)\(2\)](#)
- F5** S. 101(3)(b) inserted (19.6.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 1(2), 89, [Sch. 1 para. 2\(3\)\(a\)](#); S.S.I. 2006/332, [art. 2\(1\)\(2\)](#)
- F6** S. 101(3A) inserted (19.6.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 1(2), 89, [Sch. 1 para. 2\(3\)\(b\)](#); S.S.I. 2006/332, [art. 2\(1\)\(2\)](#)
- F7** S. 101(5) repealed (1.8.1997) by 1997 c. 48, ss. 31, 62(2), [Sch. 3](#); S.I. 1997/1712, [art. 3](#), [Sch.](#) (subject to [arts. 4, 5](#))
- F8** Words in s. 101(8) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 57(2)(a), 89; S.S.I. 2003/288, [art. 2](#), [Sch.](#)
- F9** Words in s. 101(8) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 57(2)(b), 89; S.S.I. 2003/288, [art. 2](#), [Sch.](#)
- F10** S. 101(9)-(11) added (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 53(2), 84; S.S.I. 2008/42, [art. 3](#), [Sch.](#)
- F11** S. 101(10)(c) and semi colon inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 40(3)(b)(i), 43(1) (with s. 41(1)); S.S.I. 2011/279, [art. 2\(1\)\(q\)](#)
- F12** Word in s. 101(11) repealed (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 40(3)(b)(ii)(A), 43(1) (with s. 41(1)); S.S.I. 2011/279, [art. 2\(1\)\(q\)](#)
- F13** S. 101(11)(d) and word inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 40(3)(b)(ii)(B), 43(1) (with s. 41(1)); S.S.I. 2011/279, [art. 2\(1\)\(q\)](#)
- F14** Words in s. 101(11) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 40(3)(b)(ii)(C), 43(1) (with s. 41(1)); S.S.I. 2011/279, [art. 2\(1\)\(q\)](#)
- F15** S. 101(12) inserted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), regs. 1(3), [13\(6\)](#) (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.)