



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VIII

APPEALS FROM SOLEMN PROCEEDINGS

117 Presence of appellant or applicant at hearing.

- (1) Where an appellant or applicant is in custody the Clerk of Justiciary shall notify—
 - (a) the appellant or applicant;
 - (b) the Governor of the prison in which the appellant or applicant then is; and
 - (c) the Secretary of State,of the probable day on which the appeal or application will be heard.
- (2) The Secretary of State shall take steps to transfer the appellant or applicant to a prison convenient for his appearance before the High Court at such reasonable time before the hearing as shall enable him to consult his legal adviser, if any.
- (3) A convicted appellant, notwithstanding that he is in custody, shall be entitled to be present if he desires it, at the hearing of his appeal.
- (4) When an appellant or applicant is to be present at any diet—
 - (a) before the High Court or any judge of that court; or
 - (b) for the taking of additional evidence before a person appointed for that purpose under section 104(1)(b) of this Act, or
 - (c) for an examination or investigation by a special commissioner in terms of section 104(1)(d) of this Act,the Clerk of Justiciary shall give timeous notice to the Secretary of State, in the form prescribed by Act of Adjournal or as nearly as may be in such form.
- (5) A notice under subsection (4) above shall be sufficient warrant to the Secretary of State for transmitting the appellant or applicant in custody from prison to the place where the diet mentioned in that subsection or any subsequent diet is to be held and for reconveying him to prison at the conclusion of such diet.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 117 is up to date with all changes known to be in force on or before 17 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](#)

^{F1}(6)

- (7) Where the Lord Advocate is the appellant, subsections (1) to [^{F2}(5)] above shall apply in respect of the convicted person, if in custody, as they apply to an appellant or applicant in custody.
- (8) The Secretary of State shall, on notice under subsection (4) above from the Clerk of Justiciary, ensure that sufficient male and female prison officers attend each sitting of the court, having regard to the list of appeals for the sitting.
- (9) When the High Court fixes the date for the hearing of an appeal, or of an application under section 111(2) of this Act, the Clerk of Justiciary shall give notice to the Crown Agent and to the solicitor of the convicted person, or to the convicted person himself if he has no known solicitor.

Textual Amendments

- F1** S. 117(6) repealed (17.1.2017) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 110(2)(a)(i)**, 117(2); S.S.I. 2016/426, art. 2, sch.
- F2** Word in s. 117(7) substituted (17.1.2017) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 110(2)(a)(ii)**, 117(2); S.S.I. 2016/426, art. 2, sch.

Changes to legislation:

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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.)