



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART IX

SUMMARY PROCEEDINGS

Verdict and conviction

166 Previous convictions: summary proceedings

- (1) This section shall apply where the accused in a summary prosecution has been previously convicted of any offence and the prosecutor has decided to lay a previous conviction before the court.
- (2) A notice in the form prescribed by Act of Adjournal or as nearly as may be in such form specifying the previous conviction shall be served on the accused with the complaint where he is cited to a diet, and where he is in custody the complaint and such a notice shall be served on him before he is asked to plead.
- (3) The previous conviction shall not [^{F1}, subject to section 275A(1) of this Act,] be laid before the judge until he is satisfied that the charge is proved.
- (4) If a plea of guilty is tendered or if, after a plea of not guilty, the accused is convicted the prosecutor shall lay the notice referred to in subsection (2) above before the judge, and—
 - (a) in a case where the plea of guilty is tendered in writing the accused shall be deemed to admit any previous conviction set forth in the notice, unless he expressly denies it in the writing by which the plea is tendered;
 - (b) in any other case the judge or the clerk of court shall ask the accused whether he admits the previous conviction,

and if such admission is made or deemed to be made it shall be entered in the record of the proceedings; and it shall not be necessary for the prosecutor to produce extracts of any previous convictions so admitted.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 166 is up to date with all changes known to be in force on or before 20 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

- (5) Where the accused does not admit any previous conviction, the prosecutor unless he withdraws the conviction shall adduce evidence in proof thereof either then or at any other diet.
- (6) A copy of any notice served on the accused under this section shall be entered in the record of the proceedings.
- (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) Nothing in this section shall prevent the prosecutor—
- (a) asking the accused questions tending to show that the accused 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—
 - (i) ^{F2}.....
 - (ii) under section 270 of this Act.
- ^{F3}(9) This section, except subsection (8) 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 ^{F4};
 - (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 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; ^{F5}...
 - (c) to which a work offer made under section 303ZA(1) of this Act related ^{F6}; 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) ^{F7} or, as the case may be, about the giving of the notice (including the terms of the notice).]]
- ^{F8}(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.]

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Textual Amendments

- F1** Words in s. 166(3) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), [s. 10\(2\)](#); S.S.I. 2002/443, [art. 3](#) (with art. 4(5))
- F2** S. 166(8)(b)(i) and following word repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 12\(1\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S.I. 2007/527)
- F3** S. 166(9)-(11) added (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 53\(3\)](#), 84; S.S.I. 2008/42, [art. 3](#), Sch. (subject to art. 6)
- F4** S. 166(10)(c) and semi colon inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 40\(3\)\(c\)\(i\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F5** Word in s. 166(11) repealed (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 40\(3\)\(c\)\(ii\)\(A\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F6** S. 166(11)(d) and word inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 40\(3\)\(c\)\(ii\)\(B\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F7** Words in s. 166(11) inserted (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 40\(3\)\(c\)\(ii\)\(C\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(q)
- F8** S. 166(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\(8\)](#) (with reg. 16)

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.)