



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART X

APPEALS FROM SUMMARY PROCEEDINGS

Stated case

177 Procedure where appellant in custody.

- (1) If an appellant making an application under section 176 of this Act is in custody, the court of first instance may—
 - (a) grant bail;
 - (b) grant a sist of execution;
 - (c) make any other interim order.
- (2) An application for bail shall be disposed of by the court [^{F1}before the end of the day (not being a Saturday or Sunday, or a court holiday prescribed for the court which is to determine the question of bail, unless that court is sitting on that day for the disposal of criminal business) after the day on which the application is] made.
- (3) If bail is refused or the appellant is dissatisfied with the conditions imposed, he may, within 24 hours after the judgment of the court, appeal against it by a note of appeal written on the complaint and signed by himself or his solicitor, and the complaint and proceedings shall thereupon be transmitted to the Clerk of Justiciary, and the High Court or any judge thereof, either in court or in chambers, shall ^{F2}. . . have power to review the decision of the inferior court and to grant bail on such conditions as the Court or judge may think fit, or to refuse bail.
- (4) No clerks' fees, court fees or other fees or expenses shall be exigible from or awarded against an appellant in custody in respect of an appeal to the High Court against the conditions imposed or on account of refusal of bail by a court of summary jurisdiction.
- (5) If an appellant who has been granted bail does not thereafter proceed with his appeal, the inferior court shall have power to grant warrant to apprehend and imprison him for

Status: Point in time view as at 10/03/2008. This version of this provision has been superseded.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 177 is up to date with all changes known to be in force on or before 25 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)

such period of his sentence as at the date of his bail remained unexpired and, subject to subsection (6) below, such period shall run from the date of his imprisonment under the warrant or, on the application of the appellant, such earlier date as the court thinks fit, not being a date later than the date of expiry of any term or terms of imprisonment imposed subsequently to the conviction appealed against.

- (6) Where an appellant who has been granted bail does not thereafter proceed with his appeal, the court from which the appeal was taken shall have power, where at the time of the abandonment of the appeal the person is in custody or serving a term or terms of imprisonment imposed subsequently to the conviction appealed against, to order that the sentence or, as the case may be, the unexpired portion of that sentence relating to that conviction should run from such date as the court may think fit, not being a date later than the date on which any term or terms of imprisonment subsequently imposed expired.
- (7) The court shall not make an order under subsection (6) above to the effect that the sentence or, as the case may be, unexpired portion of the sentence shall run other than concurrently with the subsequently imposed term of imprisonment without first notifying the appellant of its intention to do so and considering any representations made by him or on his behalf.
- [^{F3}(8) Subsections (6) and (7) of section 112 of this Act (bail pending determination of appeals under paragraph 13(a) of Schedule 6 to the Scotland Act 1998) shall apply to appeals arising in summary proceedings as they do to appeals arising in solemn proceedings.]

Textual Amendments

- F1** Words in s. 177(2) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 6\(3\)](#), 84; S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F2** Words in s. 177(3) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 80](#), 84, [Sch. para. 18\(1\)](#); S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)
- F3** S. 177(8) inserted (6.5.1999) by S.I. 1999/1042, [arts. 1\(2\)\(a\)](#), 3, [Sch. 1 Pt. I para. 13\(7\)](#)

Modifications etc. (not altering text)

- C1** S. 177(2) applied (1.9.2001) by [2001 c. 17, s. 10\(6\)](#); S.I. 2001/2161, [art. 2](#) (subject to [art. 3](#)) (as amended by S.I. 2001/2304, [art. 2](#))

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