



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART III

BAIL

[^{F1}23D Restriction on bail in certain solemn cases

- (1) Where subsection (2) or (3) below applies, a person is to be granted bail in solemn proceedings only if there are exceptional circumstances justifying bail.
- (2) This subsection applies where the person—
 - (a) is accused in the proceedings of [^{F2}an offence falling within subsection (3A)]; and
 - (b) has a previous conviction on indictment for [^{F3}an offence falling within subsection (3A)].
- (3) This subsection applies where the person—
 - (a) is accused in the proceedings of a drug trafficking offence; and
 - (b) has a previous conviction on indictment for a drug trafficking offence.

[An offence falls within this subsection if it is—

- ^{F4}(3A)
 - (a) a violent offence,
 - (b) a sexual offence, or
 - (c) a domestic abuse offence.]

- (4) For the purposes of this section—

“drug trafficking offence” has the meaning given by section 49(5) of the Proceeds of Crime (Scotland) Act 1995 (c. 43);

[^{F5}“domestic abuse offence” means—

- ((a)) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018, or
- ((b)) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;]

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 23D is up to date with all changes known to be in force on or before 25 June 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

“sexual offence” has the meaning given by section 210A(10) and (11) of this Act;

“violent offence” means any offence (other than a sexual offence) inferring personal violence.

- (5) Any reference in this section to a conviction on indictment for [^{F6}a type of offence] includes—
- (a) a conviction on indictment in England and Wales or Northern Ireland for an equivalent offence;
 - (b) [^{F7}if the court considers appropriate] a conviction in a member State of the European Union (^{F8}...) which is equivalent to conviction on indictment for an equivalent offence.
- (6) Any issue of equivalence arising in pursuance of subsection (5) above is for the court to determine.
- (7) This section is without prejudice to section 23C of this Act.]

Textual Amendments

- F1** Ss. 23B-23D inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 1](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), [Sch.](#) (as amended by [S.S.I. 2007/527](#))
- F2** Words in s. 23D(2)(a) substituted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018 \(asp 5\)](#), s. 15(2), [sch. para. 1\(2\)\(a\)\(i\)](#); [S.S.I. 2018/387](#), [reg. 2](#) (with [reg. 6](#))
- F3** Words in s. 23D(2)(b) substituted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018 \(asp 5\)](#), s. 15(2), [sch. para. 1\(2\)\(a\)\(ii\)](#); [S.S.I. 2018/387](#), [reg. 2](#) (with [reg. 6](#))
- F4** S. 23D(3A) inserted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018 \(asp 5\)](#), s. 15(2), [sch. para. 1\(2\)\(b\)](#); [S.S.I. 2018/387](#), [reg. 2](#) (with [reg. 6](#))
- F5** Words in s. 23D(4) inserted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018 \(asp 5\)](#), s. 15(2), [sch. para. 1\(2\)\(c\)](#); [S.S.I. 2018/387](#), [reg. 2](#) (with [reg. 6](#))
- F6** Words in s. 23D(5) substituted (1.4.2019) by [Domestic Abuse \(Scotland\) Act 2018 \(asp 5\)](#), s. 15(2), [sch. para. 1\(2\)\(d\)](#); [S.S.I. 2018/387](#), [reg. 2](#) (with [reg. 6](#))
- F7** Words in s. 23D(5)(b) inserted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), [regs. 1\(3\)](#), [13\(3\)\(a\)](#) (with [reg. 16](#))
- F8** Words in s. 23D(5)(b) omitted (31.12.2020) by virtue of [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), [regs. 1\(3\)](#), [13\(3\)\(b\)](#) (with [reg. 16](#))

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 23D is up to date with all changes known to be in force on or before 25 June 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.

View outstanding changes

Changes and effects yet to be applied to :

- s. 23D repealed by 2023 asp 4 s. 3

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. 44(5A)(5B) inserted by 2024 asp 5 s. 19(2)(c)
- s. 49(1)-(1F) substituted for s. 49(1)-(3) by 2024 asp 5 s. 17(2)(a)
- s. 49(4A)-(4C) inserted by 2024 asp 5 s. 17(2)(c)
- s. 50(7) inserted by 2024 asp 5 s. 16(2)
- s. 51(6)-(8) inserted by 2024 asp 5 s. 18(2)(e)
- s. 70B and cross-heading inserted by 2024 asp 5 s. 16(3)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 142A inserted by 2024 asp 5 s. 16(5)
- 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. 175(1)(ca) words substituted by 2024 asp 5 Sch. para. 7(4)(a)
- 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. 208A inserted by 2024 asp 5 s. 19(6)
- s. 210ZA inserted by 2023 asp 4 s. 5
- s. 216(8)-(11) inserted by 2024 asp 5 s. 19(7)
- 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)
- s. 288BZA inserted by 2024 asp 5 s. 33(2)

- 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.)