



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VI

#### MENTAL DISORDER

#### *[<sup>F1</sup>Unfitness for trial*

#### **[<sup>F1</sup>53F Unfitness for trial**

- (1) A person is unfit for trial if it is established on the balance of probabilities that the person is incapable, by reason of a mental or physical condition, of participating effectively in a trial.
- (2) In determining whether a person is unfit for trial the court is to have regard to—
  - (a) the ability of the person to—
    - (i) understand the nature of the charge,
    - (ii) understand the requirement to tender a plea to the charge and the effect of such a plea,
    - (iii) understand the purpose of, and follow the course of, the trial,
    - (iv) understand the evidence that may be given against the person,
    - (v) instruct and otherwise communicate with the person's legal representative, and
  - (b) any other factor which the court considers relevant.
- (3) The court is not to find that a person is unfit for trial by reason only of the person being unable to recall whether the event which forms the basis of the charge occurred in the manner described in the charge.
- (4) In this section “the court” means—
  - (a) as regards a person charged on indictment, the High Court or the sheriff court,
  - (b) as regards a person charged summarily, the sheriff court.]

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*Status: Point in time view as at 01/09/2015.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 53F is up to date with all changes known to be in force on or before 15 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)*

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#### **Textual Amendments**

- F1** S. 53F and cross-heading inserted (with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 170(1)**, 206(1); S.S.I. 2012/160, art. 3, sch.

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