



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

Trial

94 Transcripts of record and documentary productions.

- (1) The Clerk of Justiciary may direct that a transcript of a record made under section 93(1) of this Act, or any part thereof, be made and delivered to him for the use of any judge.
- (2) Subject to subsection (3) below, the Clerk of Justiciary shall, if requested to do so by—
 - (a) the Secretary of State [^{F1}or, subject to subsection (2B) below, the prosecutor] ; or
 - (b) any other person [^{F2}, not being a person convicted at the trial,] on payment of such charges as may be fixed for the time being by Treasury,direct that such a transcript be made and sent to the person who requested it.

[^{F3}(2A) If—

- (a) on the written application of a person convicted at the trial and granted leave to appeal; and

[^{F4}(b) either of the conditions in subsection (2AZA) is met or it is otherwise in the interests of justice to do so,]

a judge of the High Court [^{F5}may order, and in that event] the Clerk of Justiciary shall direct, on payment of such charges as are mentioned in paragraph (b) of subsection (2) above, that such a transcript be made and sent to that person.

[The conditions mentioned in subsection (2A)(b) are that—

- ^{F6}(2AZA) (a) a ground of appeal, for which leave to appeal has been granted, reveals a significant dispute between that ground and the report of the trial judge on the nature and extent of the evidence, speech or other part of the record to which the application relates; or

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- (b) the trial judge’s report does not, in relation to a ground of appeal for which leave to appeal has been granted, provide a sufficient narrative of the nature and extent of the evidence, speech or other part of the record to which the application relates.]

[Subsection (2A) applies to a person mentioned in subsection (2AB) as it applies to a
^{F7}(2AA) person convicted at the trial, with the modification that the reference to the transcript in subsection (2A) is to be construed as a reference to the transcript of the record made of proceedings at the trial resulting in the acquittal mentioned in subsection (2AB)(b).

(2AB) The person mentioned in subsection (2AA) is a person who—

- (a) is convicted of the offence mentioned in subsection (1) of section 11 of the Double Jeopardy (Scotland) Act 2011 (asp 16);
- (b) is subsequently acquitted of an offence mentioned in subsection (2) of that section; and
- (c) desires to appeal, under subsection (7) of that section, against the conviction of the offence mentioned in paragraph (a).]

(2B) Where, as respects any person convicted at the trial, the Crown Agent has received intimation under section 107(10) of this Act, the prosecutor shall not be entitled to make a request under subsection (2)(a) above; but if, on the written application of the prosecutor and on cause shown, a judge of the High Court so orders, the Clerk of Justiciary shall direct that such a transcript be made and sent to the prosecutor.

(2C) Any application under subsection (2A) above shall—

- (a) be made within 14 days after the date on which leave to appeal was granted or within such longer period after that date as a judge of the High Court may, on written application and on cause shown, allow; and
- [set out, for each ground of appeal to which the application relates, the
^{F8}(aa) particular evidence, speech or other part of the record required; and]
- (b) be intimated forthwith by the applicant to the prosecutor.

(2D) The prosecutor may, within 7 days after receiving intimation under subsection (2C) (b) above, make written representations to the court as respects the application under subsection (2A) above (the application being determined without a hearing).

(2E) Any application under subsection (2B) above shall—

- (a) be made within 14 days after the receipt of intimation mentioned in that subsection or within such longer period after that receipt as a judge of the High Court may, on written application and on cause shown, allow; and
- (b) be intimated forthwith by the prosecutor to the person granted leave to appeal.

(2F) The person granted leave to appeal may, within 7 days after receiving intimation under subsection (2E)(b) above, make written representations to the court as respects the application under subsection (2B) above (the application being determined without a hearing).]

(3) The Secretary of State may, after consultation with the Lord Justice General, by order made by statutory instrument provide that in any class of proceedings specified in the order the Clerk of Justiciary shall only make a direction under subsection (2)(b) above if satisfied that the person requesting the transcript is of a class of person so specified and, if purposes for which the transcript may be used are so specified, intends to use it only for such a purpose; and different purposes may be so specified for different classes of proceedings or classes of person.

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- (4) Where subsection (3) above applies as respects a direction, the person to whom the transcript is sent shall, if purposes for which that transcript may be used are specified by virtue of that subsection, use it only for such a purpose.
- (5) A statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A direction under subsection (1) or (2) above may require that the transcript be made by the person who made the record or by such competent person as may be specified in the direction; and that person shall comply with the direction.
- (7) A transcript made in compliance with a direction under subsection (1) or (2) above—
 - (a) shall be in legible form; and
 - (b) shall be certified by the person making it as being a correct and complete transcript of the whole or, as the case may be, the part of the record purporting to have been made and certified, and in the case of shorthand notes signed, by the person who made the record.
- (8) The cost of making a transcript in compliance with a direction under subsection (1) or (2)(a) above shall be defrayed, in accordance with scales of payment fixed for the time being by the Treasury, out of money provided by Parliament.
- (9) The Clerk of Justiciary shall, on payment of such charges as may be fixed for the time being by the Treasury, provide a copy of any documentary production lodged in connection with an appeal under this Part of this Act to such of the following persons as may request it—
 - (a) the prosecutor;
 - (b) any person convicted in the proceedings;
 - (c) any other person named in, or immediately affected by, any order made in the proceedings; and
 - (d) any person authorised to act on behalf of any of the persons mentioned in paragraphs (a) to (c) above.

Textual Amendments

- F1** Word in s. 94(2)(a) added (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 65(a)(i)**, 89; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F2** Words s. 94(2)(b) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 65(a)(ii)**, 89; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F3** S. 94(2A)-(2F) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 65(b)**, 89; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F4** S. 94(2A)(b) substituted (12.11.2012) by [Act of Adjournment \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Transcripts\) 2012 \(S.S.I. 2012/272\)](#), paras. 1(2), **2(2)(a)** (with para. 3)
- F5** Words in s. 94(2A) substituted (12.11.2012) by [Act of Adjournment \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Transcripts\) 2012 \(S.S.I. 2012/272\)](#), paras. 1(2), **2(2)(b)** (with para. 3)
- F6** S. 94(2AZA) inserted (12.11.2012) by [Act of Adjournment \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Transcripts\) 2012 \(S.S.I. 2012/272\)](#), paras. 1(2), **2(3)** (with para. 3)
- F7** S. 94(2AA)(2AB) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), **sch. para. 7**; [S.S.I. 2011/365](#), art. 3
- F8** S. 94(2C)(aa) inserted (12.11.2012) by [Act of Adjournment \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Transcripts\) 2012 \(S.S.I. 2012/272\)](#), paras. 1(2), **2(4)** (with para. 3)

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.)