



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART I

#### SOLEMN PROCEDURE

##### *Jurisdiction*

#### **1 Application of Part I of this Act.**

This Part of this Act shall apply to solemn proceedings in respect of any crime or offence which might, prior to the passing of this Act, or which may under the provisions of this or any Act, whether passed before or after the passing of this Act, be tried on indictment or criminal letters.

#### **2 Jurisdiction and powers of courts of solemn jurisdiction.**

- (1) The jurisdiction and powers of all courts of solemn jurisdiction, except in so far as the same may be altered or modified by any future Act, shall remain as at the commencement of this Act.
- (2) The sheriff shall, without prejudice to any other or wider power conferred by statute, not be entitled, on the conviction on indictment of an accused person, to pass a sentence of imprisonment for a term exceeding [<sup>F1</sup>three years].
- [<sup>F2</sup>(3) Subject to subsection (4) below, where under any enactment passed or made before the commencement of section 58 of the Criminal Justice (Scotland) Act 1987 an offence is punishable on conviction on indictment by imprisonment for a term exceeding two years but the enactment either expressly or impliedly restricts the power of the sheriff to impose a sentence of imprisonment for a term exceeding two years, it shall be competent for the sheriff to impose a sentence of imprisonment for a term exceeding two but not exceeding three years.

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- (4) Nothing in subsection (3) above shall authorise the imposition by the sheriff of a sentence in excess of the sentence specified by the enactment as the maximum sentence which may be imposed on conviction of the offence.]

#### Textual Amendments

- F1** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 58(1)(a)**  
**F2** [S. 2\(3\)\(4\)](#) inserted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 58(1)(b)**

### 3 Jurisdiction of sheriff.

- (1) Subject to the provisions of this section, the jurisdiction of the sheriffs, within their respective sheriffdoms shall extend to and include all navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining such sheriffdoms and shall include all criminal maritime causes and proceedings (including such as may apply to persons furth of Scotland) provided the accused shall upon any legal ground of jurisdiction be subject to the jurisdiction of the sheriff before whom such cause or proceeding may be raised.
- (2) It shall not be competent to the sheriff to try any crime committed on the seas which it would not be competent for him to try if the crime had been committed on land.
- (3) Where sheriffdoms are separated by a river, firth or estuary, the sheriffs on either side shall have concurrent jurisdiction over the intervening space occupied by water.
- [<sup>F3</sup>(4) Where an offence is alleged to have been committed in one district in a sheriffdom, it shall be competent to try that offence in a sheriff court in any other district in that sheriffdom.]

#### Textual Amendments

- F3** [S. 3\(4\)](#) inserted (30.9.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 39:1\)](#), **s.60**; [S.I. 1991/2151](#), **art. 3**, Sch.

### 4 Boundaries of jurisdiction.

- (1) Where an offence is committed in any harbour, river, arm of the sea or other water (tidal or otherwise) which runs between or forms the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts.
- (2) Where an offence is committed on the boundary of the jurisdiction of two or more courts, or within the distance of 500 yards of any such boundary, or partly within the jurisdiction of one court and partly within the jurisdiction of another court or courts, such offence may be tried by any one of such courts.
- (3) Where an offence is committed on any person or in respect of any property in or upon any carriage, cart or vehicle employed in a journey by road or railway, or on board any vessel employed in a river, lake, canal or inland navigation, such offence may be tried by any court through whose jurisdiction such carriage, cart, vehicle or vessel passed in the course of the journey or voyage during which the offence was committed, and, where the side, bank, centre or other part of the road, railway, river, lake, canal or inland navigation along which the carriage, cart, vehicle or vessel passed in the course

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of such journey or voyage is the boundary of the jurisdiction of two or more courts, such offence may be tried by any one of such courts.

- (4) Where several offences, which if committed in one sheriff court district could be tried under one indictment, are alleged to have been committed by any person in different sheriff court districts, the accused may be tried for all or any of those offences under one indictment before the sheriff of any one of such sheriff court districts.
- (5) Where an offence is authorised by this section to be tried by any court, it may be dealt with, heard, tried, determined, adjudged and punished as if the offence had been committed wholly within the jurisdiction of such court.

## 5 Procedure in case of crime in different districts.

- (1) Where a person is alleged to have committed in more than one sheriff court district a crime or crimes to which subsection (2) of this section applies, he may be indicted to [<sup>F4</sup>the sheriff court of] such one of such sheriff court districts as shall be determined by the Lord Advocate . . . <sup>F5</sup>.
- (2) This subsection applies to—
  - (a) a crime committed partly in one sheriff court district and partly in another;
  - (b) crimes connected with each other but committed in different sheriff court districts;
  - (c) crimes committed in different sheriff court districts in succession which, if they had been committed in one such district, could have been tried under one indictment.
- (3) Where, in accordance with the provisions of this section, a case is tried in the sheriff court of any sheriff court district, the procurator fiscal of that district shall have power to prosecute in that case and the sheriff of that district shall have power to try the case and to pronounce sentence on conviction even if the crime in question has in whole or in part been committed in a different district.
- (4) The sheriff and procurator fiscal referred to in subsection (3) of this section shall have the like powers in relation to the case in question, whether before, during or after the trial, as they respectively have in relation to a case arising out of a crime or crimes committed wholly within their own district.

### Textual Amendments

- F4** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(1), [Sch. 1 para. 4\(a\)](#)
- F5** Words repealed by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 47(4)(a), 70(1)(2), [Sch. 1 para. 4\(b\)](#), [Sch. 2](#)

## 6 Jurisdiction and procedure in respect of certain indictable offences committed abroad.

- (1) Any British subject who in a country outside the United Kingdom does any act or makes any omission which if done or made in Scotland would constitute the crime of murder or of culpable homicide shall be guilty of the same crime and subject to the same punishment as if the act or omission had been done or made in Scotland.

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- (2) Any British subject employed in the service of the Crown who, in a foreign country, when acting or purporting to act in the course of his employment, does any act or makes any omission which if done or made in Scotland would constitute an offence punishable on indictment shall be guilty of the same offence, and subject to the same punishment, as if the act or omission had been done or made in Scotland.
- (3) A person may be proceeded against, indicted, tried and punished for an offence under this section
- [<sup>F6</sup>(a)] in any sheriff court district in Scotland in which he is apprehended or is in custody [<sup>F7</sup>;or.
- (b) in such sheriff court district as the Lord Advocate may determine, as if] the offence had been committed in that district, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that district.

#### Textual Amendments

- F6** Word (a) in s. 6(3) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 7(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F7** S. 6(3)(b) and words substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) for words by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 7(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

### 7 Theft outside Scotland.

- (1) Any person who has in his possession in Scotland property which he has stolen in any other part of the United Kingdom may be dealt with, indicted, tried and punished in Scotland in like manner as if he had stolen it in Scotland.
- (2) Any person who in Scotland receives property stolen in any other part of the United Kingdom may be dealt with, indicted, tried and punished in Scotland in like manner as if it had been stolen in Scotland.

### 8 Trial of certain crimes and offences in sheriff court.

- (1) Without prejudice to any other power to indict crimes in the sheriff court, it shall be lawful to indict in the sheriff court persons accused of any of the following crimes:—
- (a) the crime of uttering a forged document;
  - (b) the crime of robbery;
  - (c) the crime of wilful fire-raising;
  - (d) any of the crimes of going armed by night for the destruction of game.
- (2) . . . . . <sup>F8</sup>

#### Textual Amendments

- F8** S. 8(2) repealed by **Criminal Justice Act 1982 (c. 48, SIF 39:1)**, **Sch. 16**

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**9 Instructions by Lord Advocate as to reporting offences.**

The Lord Advocate may from time to time issue instructions to a chief constable with regard to the reporting, for consideration of the question of prosecution, of offences alleged to have been committed within the area of such chief constable, and it shall be the duty of a chief constable to whom any such instruction is issued to secure compliance therewith.

**10 Intimation of proceedings in High Court to Lord Advocate.**

In any proceeding in the High Court (other than a proceeding to which the Lord Advocate or a procurator fiscal is a party) it shall be competent for the court to order intimation of such proceeding to the Lord Advocate.

**11 Procedure after intimation.**

On intimation being made to the Lord Advocate of a proceeding in the High Court under section 10 of this Act, the Lord Advocate shall be entitled to appear and be heard in such proceeding.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act certain function transferred. by [1994 c. 39 s. 127\(1\)128](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 168(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(6\)\(b\)](#)
- s. 364(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(14\)\(b\)](#)
- s. 413(3) (defn.of "the appropriate local authority") para. (a)(b) amended by [1994 c. 39 Sch. 13 para. 97\(5\)](#)
- s. 413(3) (defns. of "care" and "the 1968 Act") repealed (prosp.) by [1995 c. 36 s. 105\(4\)\(5\)Sch. 4 para. 24\(17\)\(b\)\(i\)Sch. 5](#)
- s. 462 (defns. of "child" "children's hearing" "place of safety" "residential establishment" and "supervision requirement") amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(18\)](#)
- s. 462 (defns. of "crime" and "prosecutor") applied (prosp.) by [1995 c. 36 s. 53\(7\)](#)