



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART III

#### GENERAL

#### [<sup>F1</sup>457ZA] Acts of Adjournal.

- (1) The High Court may by Act of Adjournal—
  - (a) regulate the practice and procedure in relation to criminal procedure; and
  - (b) make such rules and regulations as may be necessary or expedient to carry out the purposes and accomplish the objects of any enactment (including an enactment in this Act) in so far as it relates to criminal procedure,provided that no rule, regulation or provision which affects the governor or any other officer of a prison shall be made by any such Act of Adjournal except with the consent of the Secretary of State.
- (2) The High Court may by Act of Adjournal modify, amend or repeal any enactment (including an enactment in this Act) in so far as that enactment relates to matters with respect to which an Act of Adjournal may be made under subsection (1) above.]

#### Textual Amendments

**F1** [S. 457ZA](#) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117, [Sch. 6 Pt. I para. 156](#); S.I. 1996/517, arts. 3-6, [Sch.](#)

#### [<sup>F2</sup>457A] Mode of trial of certain offences.

- (1) An offence created by statute shall be triable only summarily if—
  - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
  - (b) subject to subsections (2) and (3)(a) below, the <sup>M1</sup>offence was created by an Act passed on or before 29th July 1977 (the date of passing of the Criminal

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Law Act 1977) and the penalty or maximum penalty in force immediately before that date, on any conviction of that offence, did not include any of the following—

- (i) a fine exceeding £400;
- (ii) imprisonment for a period exceeding 3 months;
- (iii) a fine exceeding £50 in respect of a specified quantity or number of things, or in respect of a specified period during which a continuing offence is committed:

Provided that, in the application of paragraph (b)(ii) above, no regard shall be paid to the fact that section 290 of this Act permits the imposition of imprisonment for a period exceeding 3 months in certain circumstances.

- (2) An offence created by statute which is triable only on indictment shall continue only to be so triable.
- (3) An offence created by statute shall be triable either on indictment or summarily if—
  - (a) the enactment creating the offence or any other enactment expressly so provides (in whatever words); or
  - (b) it is an offence to which neither subsection (1) nor subsection (2) above applies.
- (4) An offence which may under any enactment (including an enactment in this Act or passed after this Act) be tried only summarily, being an offence which, if it had been triable on indictment, could competently have been libelled as an additional or alternative charge in the indictment, may (the provisions of this or any other enactment notwithstanding) be so libelled, and tried accordingly:

Provided that the penalty which may be imposed for that offence in that case shall not exceed that which is competent on summary conviction.]

#### Textual Amendments

**F2** [S. 457A](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 55\(1\)](#)

#### Marginal Citations

**M1** [1977 c. 45\(39:1\)](#).

## 458 Construction of enactments referring to sentence of detention.

In any enactment, any reference to a sentence of imprisonment as including a reference to a sentence of any other form of detention shall be construed as including a reference to a sentence of detention [<sup>F3</sup>under section 207 or 415 of this Act].

#### Textual Amendments

**F3** Words substituted with saving by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), [s. 84\(2\)](#), [Sch. 7 para. 73](#) and [S.I. 1983/1580](#), [art. 3](#)

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## 459 Construction of enactments referring to detention.

In any enactment, any reference to imprisonment as including any other form of detention shall be construed as including a reference to detention [<sup>F4</sup>under section 207 or 415 of this Act].

### Textual Amendments

- F4** Words substituted with saving by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), s. 84(2), **Sch. 7 para. 74** and **S.I. 1983/1580, art. 3**

## 460 Transitional provisions and savings.

- (1) Without prejudice to the provisions of [<sup>F5</sup>sections 16(1) and 17(2)(a) of the <sup>M2</sup>Interpretation Act 1978] (effect of repeals)—
  - (a) nothing in any repeal made by this Act shall affect any order or rule made, certificate issued, requirement or condition imposed or thing done under any enactment repealed by this Act, and every such order, rule, certificate, requirement, condition or thing shall, if in force at the commencement of this Act, continue in force (subject to the provisions of this Act) and be deemed to have been made, issued, imposed or done under the corresponding provisions of this Act; and
  - (b) any reference in any document (including an enactment) to any enactment repealed by this Act, whether a specific reference or a reference to provisions of a description which includes, or apart from any repeal made by this Act includes, the enactment so repealed, shall be construed as a reference to the corresponding enactment in this Act.
- (2) Until 16th May 1975, any reference in this Act to a sheriff court district shall be construed as a reference to the county, city or place in which the sheriff court concerned has jurisdiction.
- (3) Any reference in this Act to a form contained in an Act of Adjournal under this Act shall, until that Act of Adjournal comes into force, be construed as a reference to the appropriate form in use immediately before the coming into force of that Act of Adjournal.
- (4) Nothing in this Act shall make it unlawful to detain an accused person in custody pending trial otherwise than in prison if such detention would have been lawful prior to the commencement of this Act.
- (5) ..... <sup>F6</sup>
- (7) Any reference in any enactment or document to an enactment repealed by this Act shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision in this Act.
- (8) The enactment in this Act of the provisions set out in Schedule 8 to this Act (being re-enactments of provisions contained in Acts of Adjournal made in exercise of powers conferred by Acts of Parliament) shall be without prejudice to the validity of those re-enacted provisions, and any question as to their validity shall be determined as if the re-enacted provisions were contained in Acts of Adjournal made in exercise of those powers.

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#### Textual Amendments

- F5** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 39:1\)](#), **s. 25(2)**  
**F6** [S. 460\(5\)\(6\)](#) repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 8**

#### Marginal Citations

- M2** [1978 c. 30\(115:1\)](#).

### 461 Consequential amendments, repeals and revocations.

- (1) The enactments specified in Schedule 9 to this Act shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the preceding provisions of this Act, but the amendment of any enactment by that Schedule shall not be taken as prejudicing the operation of section 38 of the <sup>M3</sup>Interpretation Act 1889 (which relates to the effect of repeals).
- (2) The enactments specified in Part I of Schedule 10 to this Act (which include enactments which were obsolete, spent, unnecessary or superseded before the passing of this Act) are hereby repealed to the extent specified in the third column of that Part of that Schedule, and the Acts of Adjournal specified in Part II of that Schedule (which include enactments which were obsolete, spent, unnecessary or superseded before the passing of this Act) are hereby revoked to the extent specified in the third column of that Part of that Schedule.

#### Modifications etc. (not altering text)

- C1** The text of s. 461 and Schedule 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M3** [1889 c. 63](#).

### 462 Interpretation.

- (1) In this Act, except where the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them—
  - “appropriate court” means a court named as such in pursuance of section 183(2) or 384(2) of this Act or of Schedule 5 to this Act in a probation order or in an amendment of any such order made on a change of residence of a probationer;
  - [<sup>F7</sup>“bail” means release of an accused or an appellant on conditions, or conditions imposed on bail, as the context requires;]
  - “Borstal training” and “detention centre” have the like meanings as in the [<sup>F8</sup>Prisons (Scotland) Act 1989];
  - “charged” means, in respect of proceedings under Part I of this Act, charged on petition or indictment and, in respect of proceedings under Part II of this Act, charged on complaint;
  - [<sup>F9</sup>“chartered psychologist” means a person for the time being listed in the British Psychological Society’s Register of Chartered Psychologists;]

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“child”, except in sections 18, 62, 171(3), 294, 313 and 368(3) of this Act and Schedule 1 to this Act, has the meaning assigned to that expression [<sup>F10</sup>for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995];

“children’s hearing” has the meaning assigned to it [<sup>F11</sup>in Part II of the Children (Scotland) Act 1995];

“Clerk of Justiciary” shall include assistant clerk of justiciary and shall extend and apply to any person duly authorised to execute the duties of Clerk of Justiciary or assistant clerk of justiciary;

“commit for trial” means commit until liberation in due course of law;

“complaint” includes a copy of the complaint laid before the court;

“convicted” (except in relation to previous convictions), in respect of proceedings under Part I of this Act, means convicted on indictment, and, in respect of proceedings under Part II of this Act, means summarily convicted; and “conviction” shall be construed accordingly;

“the court”, in relation to solemn procedure, means a court of solemn criminal jurisdiction and includes the High Court and the sheriff court and, in relation to summary procedure, means a court of summary criminal jurisdiction;

“court of summary jurisdiction” means a court of summary criminal jurisdiction;

“court of summary criminal jurisdiction” shall include the sheriff court and district court;

“crime” means all crime at common law, as well as all crime under any existing or future Acts of Parliament, and includes high crime and offence, felony, crime and offence, offence and misdemeanour, and includes attempt;

[<sup>F12</sup>“diet” includes any continuation of a diet;]

“enactment” includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

“England” includes Wales;

[<sup>F13</sup>“examination of facts” means an examination of facts held under section 174ZA or 375ZA of this Act;]

“existing” means existing immediately before the commencement of this Act;

“extract conviction” and “extract of previous conviction” include certified copy conviction, certificate of conviction, and any other document under the hand of the proper officer in use to be issued from any court of justice of the United Kingdom as evidence of a conviction;

“fine” includes [<sup>F14</sup>(a) any pecuniary penalty [<sup>F15</sup>(but not a pecuniary forfeiture or pecuniary compensation)], and (b)] an instalment of a fine;

[<sup>F16</sup>“governor” means, in relation to a contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994, the director of the prison;]

“guardian”, in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in relation to the child or in which the child is concerned, has for the time being the charge of or control over the child;

“guardianship order” has the meaning assigned to it by section 175(5) or 376(8) of this Act;

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“High Court” and “Court of Justiciary” shall mean “High Court of Justiciary” and shall include any court held by the Lords Commissioners of Justiciary, or any of them;

“indictment” shall include any indictment whether in the sheriff court or the High Court framed in the form set out in Schedule A to the <sup>M4</sup>Criminal Procedure (Scotland) Act 1887 or in an Act of Adjournal under this Act or as nearly as may be in such form;

“hospital” means—

- (a) any hospital vested in the Secretary of State [<sup>F17</sup>or in a National Health Service trust] under the <sup>M5</sup>National Health Service (Scotland) Act [<sup>F18</sup>1978],
- (b) any private hospital registered under [<sup>F19</sup>Pt.IV of the <sup>M6</sup>Mental Health (Scotland) Act 1984]; and
- (c) any State hospital;

“hospital order” has the meaning assigned to it by section 175(3) or 376(6) of this Act;

“impose detention” or “impose imprisonment” means pass a sentence of detention or imprisonment, as the case may be, or make an order for committal in default of payment of any sum of money or for [<sup>F20</sup>contempt of court];

“judge”, in relation to solemn procedure, means a judge of a court of solemn criminal jurisdiction and, in relation to summary procedure, means any sheriff or any judge of a district court;

“justice” includes the sheriff and any stipendiary magistrate or justice of the peace;

“justice of the peace” means any of Her Majesty’s justices of the peace for any commission area in Scotland acting within such commission area;

“legalised police cells” has the like meaning as in the [<sup>F8</sup>Prisons (Scotland) Act 1989];

“local authority” has the meaning assigned to it by section 1(2) of the <sup>M7</sup>Social Work (Scotland) Act 1968;

“Lord Commissioner of Justiciary” shall include Lord Justice General and Lord Justice Clerk;

“medical practitioner” means a registered medical practitioner within the meaning of the <sup>M8</sup>Medical Act 1956;

“offence” means any act, attempt or omission punishable by law;

[<sup>F21</sup>“officer of law” includes, in relation to the service and execution of any warrant, citation, petition, indictment, complaint, list of witnesses, order, notice, or other proceeding or document—

- (i) any macer, messenger-at-arms, sheriff officer or other person having authority to execute a warrant of the court;
- (ii) any constable within the meaning of the <sup>M9</sup>Police (Scotland) Act 1967;
- (iia) [<sup>F22</sup>any person who is employed under section 9 of the Police (Scotland) Act 1967 for the assistance of the constables of a police force and who is authorised by the chief constable of that police force in relation to service and execution as mentioned above;]
- (iii) where the person upon whom service or execution is effected is in prison at the time of service on him, any prison officer; and
- (iv) any person (or class of persons) authorised in that regard for the time being by the Lord Advocate or by the Secretary of State;]

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“officer of police” includes a chief constable, deputy chief constable, constable and criminal officer;

“order” means any order, byelaw, rule or regulation having statutory authority;

<sup>F23</sup>

“patient” means a person suffering or appearing to be suffering from mental disorder;

“place of safety”, in relation to a person not being a child, means any police station, prison or remand centre, or any hospital the board of management of which are willing temporarily to receive him, and in relation to a child means a place of safety within the meaning of [<sup>F24</sup>Part II of the Children (Scotland) Act 1995];

“prison” does not include a naval, military or air force prison;

[<sup>F25</sup>“prison officer” and “officer of a prison” means, in relation to a contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994, a prisoner custody officer within the meaning of section 114(1) of that Act;]

[<sup>F26</sup>“probationer” means a person who is under supervision by virtue of a probation order or who was under such supervision at the time of the commission of any relevant offence or failure to comply with such order;]

“probation order” has the meaning assigned to it by section 183 or 384 of this Act;

“probation period” means the period for which a probationer is placed under supervision by a probation order;

“procurator fiscal” shall mean sheriff’s procurator fiscal, and shall include assistant procurator fiscal and procurator fiscal depute and shall extend and apply to any person duly authorised to execute the duties of such procurator fiscal;

“prosecutor”, in Part I of this Act, includes Crown counsel, procurator fiscal, any other person prosecuting in the public interest and any private prosecutor; and, in Part II of this Act, includes procurator fiscal, district prosecutor, depute district prosecutor, assistant district prosecutor, and any other person prosecuting in the public interest, <sup>F27</sup> . . . and complainer and any person duly authorised to represent or act for any public prosecutor;

“remand” means an order adjourning the proceedings or continuing the case and giving direction as to detention in custody or liberation during the period of adjournment or continuation and references to remanding a person or remanding in custody or on bail shall be construed accordingly;

“remand centre” has the like meaning as in the [<sup>F8</sup>Prisons (Scotland) Act 1989];

[<sup>F28</sup>“reporter” means an officer appointed by a local authority under section 36 of the <sup>M10</sup>Social Work (Scotland) Act 1968;]

“residential establishment” [<sup>F29</sup> means an establishment within the meaning of that expression for the purposes of the Social Work (Scotland) Act 1968 or, as the case may be, of Part II of the Children (Scotland) Act 1995];

“responsible medical officer” has the meaning assigned to it by [<sup>F30</sup>section 59 of the <sup>M11</sup>Mental Health (Scotland) Act 1984];

[<sup>F31</sup>“restriction order” has the meaning assigned to it by section 178 or 379 of this Act;]

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[<sup>F32</sup>“sentence”, whether of detention or of imprisonment, means a sentence passed in respect of a crime or offence and does not include an order for committal in default of payment of any sum of money or for contempt of court.]

“sheriff” shall include sheriff principal;

“sheriff clerk” shall include sheriff clerk depute, and shall extend and apply to any person duly authorised to execute the duties of sheriff clerk;

“sheriff court district” shall extend to the limits within which the sheriff has jurisdiction in criminal matters whether by statute or at common law;

“State hospital” has the meaning assigned to it in [<sup>F33</sup>Part VIII of the <sup>M12</sup>Mental Health (Scotland) Act 1984];

“statute” shall mean any Act of Parliament, public general, local, or private, and any Provisional Order confirmed by Act of Parliament;

“supervision requirement” has the meaning assigned to it [<sup>F34</sup>in Part II of the Children (Scotland) Act 1995];

“training school order” has the same meaning as in the <sup>M13</sup>Social Work (Scotland) Act 1968;

“witness” includes haver.

- (2) References in this Act to a court do not include references to a court-martial; and nothing in this Act shall be construed as affecting the punishment which may be awarded by a court-martial under the <sup>M14</sup>Naval Discipline Act 1957, the <sup>M15</sup>Army Act 1955 or the <sup>M16</sup>Air Force Act 1955 for a civil offence within the meaning of those Acts.
- (3) For the purpose of any provision of Part II of this Act referring to a court acting for any place, a court entitled to exercise jurisdiction in any place shall be deemed to be a court acting for that place.
- (4) For the purposes of this Act, except section 183(7) or 384(7) thereof, where a probation order has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.
- (5) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution.
- (6) Any reference in this Act to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of [<sup>F35</sup>the United Kingdom] and to a previous sentence passed by any such court.
- (7) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment, including this Act, upon the imprisonment of offenders of his age.
- (8) Without prejudice to the provisions of section 171 or 368 of this Act, where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.



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- (9) References in this Act to findings of guilty and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.

<sup>F36</sup>(10) .....

- (11) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended, extended or applied by or under any other enactment, including this Act.

### Textual Amendments

- F7** Definition substituted by [Bail etc. \(Scotland\) Act 1980 \(c. 4, SIF 39:1\)](#), **Sch. 1 para. 14**
- F8** Words substituted by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), s. 45(1), **Sch. 2 para. 16**
- F9** Definition of “chartered psychologist” in s. 462(1) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) with [1995 c. 20, s. 39\(2\)](#); S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F10** Words in the definition of “child” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(a)** (with s. 103(1))
- F11** Words in the definition of “children’s hearing” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(b)** (with s. 103(1))
- F12** Definition inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 76(a)**
- F13** Definition of “examination of facts” in s. 462(1) inserted (S.) (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. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F14** Words inserted by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 11 para. 10**
- F15** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 15 para. 19**
- F16** Definition of “governor” in s. 462(1) inserted (S.) (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. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F17** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 14**
- F18** Words substituted by [National Health Service \(Scotland\) Act 1978 \(c. 29, SIF 113:2\)](#), **Sch. 16 para. 41**
- F19** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(1), **Sch. 3 para. 37(a)**
- F20** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 76(b)**
- F21** Definition substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 25(a)
- F22** S. 462(1): para. (ia) in the definition of “officer of law” inserted (S.) (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. 157(2)(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F23** Definition of “order restricting discharge” repealed by [Mental Health \(Amendment\) \(Scotland\) Act 1983 \(c. 39\)](#), **Sch. 3**
- F24** Words in the definition of “place of safety” in s. 462(1) substituted (S.) (*prosp.*) by [1995 c. 36, s. 105\(1\)\(4\)](#), **Sch. 4 para. 24(18)(c)** (with s. 103(1))
- F25** Definitions of “prison officer” and “officer of a prison” inserted (S.) (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. 157(2)(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F26** Definition substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), s. 25(b)
- F27** Words in the definition of “prosecutor” in s. 462(1) repealed (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1995 c. 20, s. 117](#), **Sch. 6 Pt. I para. 157(2)(c)**, **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F28** Definition of “reporter” in s. 462(1) shall cease to have effect (S.) (1.4.1996) by virtue of [1994 c. 39, ss. 180\(1\)](#), **Sch. 13 para. 97(6)**; S.I. 1996/323, **art. 4(1)(b)(c)**

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- F29** Words in the definition of “residential establishment” in s. 462(1) substituted (S.) (*prosp.*) by 1995 c. 36, s. 105(1)(4), **Sch. 4 para. 24(18)(d)** (with s. 103(1))
- F30** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 37(b)**
- F31** Definition inserted by virtue of Mental Health (Amendment) (Scotland) Act 1983 (c. 39), **Sch. 2 para. 37(b)** and Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 126(2)(b)
- F32** Definition substituted by Criminal Justice (Scotland) Act 1980 (c. 62), **Sch. 7 para. 76(c)**
- F33** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 37(c)**
- F34** Words in the definition of “supervision requirement” in s. 462(1) substituted (S.) (*prosp.*) by 1995 c. 36, s. 105(1)(4), **Sch. 4 para. 24(18)(e)** (with s. 103(1))
- F35** Words in s. 462(6) substituted (S.) (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. 157(3)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F36** S. 462(10) repealed (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117, **Sch. 6 Pt. I para. 157(4)**, **Sch. 7 Pt. I**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

#### Modifications etc. (not altering text)

- C2** in s. 462(1), definition of “justice” applied by Customs and Excise Management Act 1979 (c. 2, SIF 40:1), s. 118C(3) (as inserted by Finance Act 1991 (c. 31, SIF 40:1), s. 12, **Sch. 5**).
- C3** S. 462(1) definition of “medical practitioner” amended by Medical Act 1983 (c. 54, SIF 83:1), **Sch. 6 para. 11(2)**

#### Marginal Citations

- M4** 1887 c. 35(39:1).
- M5** 1978 c. 29(113:2).
- M6** 1984 c. 36(85).
- M7** 1968 c. 49(81:3).
- M8** 1956 c. 76.
- M9** 1967 c. 77(95).
- M10** 1968 c. 49(81:3).
- M11** 1984 c. 36(85).
- M12** 1984 c. 36(85).
- M13** 1968 c. 49(81:3).
- M14** 1957 c. 53(7:1).
- M15** 1955 c. 18(7:1).
- M16** 1955 c. 19(7:1).

## 463 Extent.

- (1) The following provisions of this Act shall extend to England and Wales, that is to say—
- (a) in Part I, sections . . . <sup>F37</sup>, 169, 188(3) to (8) [<sup>F38</sup>189 and 212A(2) and (6)];
  - (b) in Part II, sections . . . <sup>F39</sup>, 365, 370 (so far as relating to section 374), 374, 389(3) to (8) [<sup>F40</sup>, 390 and 413];
  - (c) in Part III, section 463(1);
  - (d) in Schedule 9, the amendments relating to—
    - (i) . . . <sup>F41</sup>
    - (ii) the <sup>M17</sup>Criminal Justice Act 1961;
    - (iii) . . . <sup>F41</sup>
    - (iv) the <sup>M18</sup>Criminal Justice Act 1967;
    - (v) the <sup>M19</sup>Children and Young Persons Act 1969;
    - (vi) the <sup>M20</sup>Immigration Act 1971;

**Changes to legislation:** Criminal Procedure (Scotland) Act 1975, Part III is up to date with all changes known to be in force on or before 12 July 2023. 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

- (vii) the <sup>M21</sup>Criminal Justice Act 1972; and
  - (viii) the <sup>M22</sup>Powers of Criminal Courts Act 1973.
  - (e) in Schedule 10, the repeals relating to—
    - (i) sections 46, 50 and 54 of the <sup>M23</sup>Children and Young Persons (Scotland) Act 1937;
    - (ii) sections 7 and 7A of the <sup>M24</sup>Criminal Justice (Scotland) Act 1949;
    - (iii) sections 39, 40 and 53(1) of the <sup>M25</sup>Criminal Justice (Scotland) Act 1963;
    - (iv) section 54(8) of the <sup>M26</sup>Criminal Justice Act 1967;
    - (v) Schedule 5 (other than paragraph 68 thereof) to the <sup>M27</sup>Children and Young Persons Act 1969; and
    - (vi) sections 53 and 58(a) of, and paragraphs 3 and 19 of Schedule 5 to, the <sup>M28</sup>Powers of Criminal Courts Act 1973.
- [<sup>F42</sup>(1A) Sections 169 [<sup>F43</sup>, 374 and 413] of this Act shall extend to Northern Ireland.]
- (2) The following provisions of this Act shall extend to the Isle of Man, that is to say—
- (a) in Part I, section 16;
  - (b) in Part II, section 324;
  - (c) in Part III, section 463(2);
  - (d) in Schedule 10, the repeal relating to section 53(3) of the <sup>M29</sup>Criminal Justice (Scotland) Act 1963.
- (3) Save as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall extend to Scotland only.

#### Textual Amendments

- F37** Words repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13**
- F38** Words in s. 463(1)(a) substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(38)** (with s. 47(2), [Sch. 6 paras. 1, 2](#)); S.I. 1993/2050, **art. 3(4)**
- F39** Words repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13** and Magistrates'; [Courts Act 1980 \(c. 43, SIF 39:1\)](#), s. 154, **Sch. 9**
- F40** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 59(2)(a)**
- F41** [S. 463\(1\)\(d\)\(i\)\(iii\)](#) repealed by [Criminal Law Act 1977 \(c. 45, SIF 39:1\)](#), **Sch. 13**
- F42** [S. 463\(1A\)](#) added by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 77**
- F43** Words substituted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 59(2)(b)**

#### Marginal Citations

- M17** 1961 c. 39(39:1).
- M18** 1967 c. 80.(39:1).
- M19** 1969 c. 54(20).
- M20** 1971 c. 77(62).
- M21** 1972 c. 71(39:1).
- M22** 1973 c. 62(39:1).
- M23** 1937 c. 37(20).
- M24** 1949 c. 94.(39:1).
- M25** 1963 c. 39(39:1).
- M26** 1967 c. 80.(39:1).
- M27** 1969 c. 54(20).
- M28** 1973 c. 62(39:1).

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**M29** [1963 c. 39\(39:1\)](#).

#### **464 Short title and commencement.**

- (1) This Act may be cited as the Criminal Procedure (Scotland) Act 1975.
- (2) Subject to the following provisions of this section, this Act shall come into operation on 16th May 1975.
- (3) Sections 23 and 329 of this Act shall come into operation on such day as Her Majesty may by Order in Council appoint.
- (4) Sections 214 and 423 of this Act shall come into operation on such date as the Secretary of State may by order appoint; and any such order shall be made by statutory instrument.
- (5) A statutory instrument containing an order under subsection (4) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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#### **Subordinate Legislation Made**

**P1** [S. 464\(3\)](#) power of appointment exercised (19.12.1991) by [S.I.1991/2883](#)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1975, Part III is up to date with all changes known to be in force on or before 12 July 2023. 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.

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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\(7\)](#)