



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PROCEDURE PRIOR TO TRIAL

APPEAL

Further provisions as to appeals

268 Reckoning of time spent pending appeal.

[^{F1}(1) Subject to subsection (2) below, where [^{F2}a convicted person] is admitted to bail under section 238 of this Act the period beginning with the date of his admission to bail and ending on the date of his readmission to prison in consequence of the determination or abandonment of his appeal [^{F3}, or as the case may be of any [^{F4}relevant appeal by the Lord Advocate under section 228A of this Act], shall not be reckoned as part of any term of imprisonment under [^{F2}that] sentence.]

[^{F5}(2) The time (including any period consequent on the recall of bail) during which a convicted person is in custody pending the determination of his appeal, or as the case may be of any [^{F4}relevant appeal by the Lord Advocate under section 228A of this Act], shall subject to any direction which the High Court may give to the contrary be reckoned as part of any term of imprisonment under that sentence.

[^{F6}(3) Subject to any direction which the High Court may give to the contrary, imprisonment of an appellant [^{F7}(or, where the appellant is the Lord Advocate, of a convicted person)]—

- (a) who is in custody in consequence of the conviction or sentence appealed against shall be deemed to run as from the date on which the sentence was passed;
- (b) who is in custody other than in consequence of such conviction or sentence shall be deemed to run or to be resumed as from the date on which his appeal was determined or abandoned;
- (c) who is not in custody shall be deemed to run or to be resumed as from the date on which he is received into prison under the sentence.]

Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 268 is up to date with all changes known to be in force on or before 30 April 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

- (4) In this section references to a prison and imprisonment shall include respectively references to a [^{F8}young offenders institution], detention centre or place of safety [^{F9}or, as respects a child sentenced to be detained under section 206 of this Act, the place directed by the Secretary of State] and to detention in such institution, centre or place of safety [^{F10}or, as respects such a child, place directed by the Secretary of State], and any reference to a sentence shall be construed as a reference to a sentence passed by the court imposing sentence or by the High Court on appeal as the case may require.

Textual Amendments

- F1** S. 268(1) substituted by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 14(1)**
- F2** Words in s. 268(1) substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(23)(a)(i)(iii)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 10(b)
- F3** Words in s. 268(1) inserted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(23)(a)(ii)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 10(b)
- F4** Words in s. 268(1)(2) substituted (27.7.1993) by 1993 c. 36, s. 79(13), **Sch. 5 Pt. I para. 2(8)**
- F5** S. 268(2) substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(23)(b)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 10(b)
- F6** S. 268(3) by Criminal Justice (Scotland) Act 1987 (c. 41, SIF 39:1), ss. 47(4)(a), 70(1), **Sch. 1 para. 14(3)**
- F7** Words in s. 268(3) inserted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(23)(c)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 10(b)
- F8** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 46** and S.I. 1983/1580, **art. 3**
- F9** Words in s. 268(4) 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. 94(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F10** Words in s. 268(4) 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. 94(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

Changes to legislation:

Criminal Procedure (Scotland) Act 1975, Section 268 is up to date with all changes known to be in force on or before 30 April 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\(7\)](#)