



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *Imprisonment, etc.*

#### **207 Detention of young offenders.**

- (1) It shall not be competent to impose imprisonment on a person under 21 years of age.
- (2) Subject to [<sup>F1</sup>sections 205(2) and (3) [<sup>F2</sup>, 205ZA(6), 205ZC(4)], 205A(2)(b) and 205B(2)(b)] of this Act and to subsections (3) and (4) below, a court may impose detention (whether by way of sentence or otherwise) on a person, who is not less than 16 but under 21 years of age, where but for subsection (1) above the court would have power to impose a period of imprisonment; and a period of detention imposed under this section on any person shall not [<sup>F3</sup>be less than the minimum nor more than]the maximum period of imprisonment which might otherwise have been imposed.
- (3) The court shall not under subsection (2) above impose detention on an offender unless it is of the opinion that no other method of dealing with him is appropriate; and the court shall state its reasons for that opinion, and, except in the case of the High Court, those reasons shall be entered in the record of proceedings.

[<sup>F4</sup>(3A) Subsections (2) and (3) above are subject to—

- (a) section 51A(2) of the Firearms Act 1968 (minimum sentences for certain firearms offences); and
  - (b) section 29(8) of the Violent Crime Reduction Act 2006 (minimum sentence of detention for certain offences relating to dangerous weapons).]
- (4) To enable the court to form an opinion under subsection (3) above, it shall obtain from an officer of a local authority or otherwise such information as it can about the offender's circumstances; and it shall also take into account any information before it concerning the offender's character and physical and mental condition.

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 207 is up to date with all changes known to be in force on or before 04 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) View outstanding changes*

[<sup>F5</sup>(4A) In forming an opinion under subsection (3) above the court shall take into account its power to make a hospital direction in addition to imposing a period of detention.]

[<sup>F6</sup>(4B) Subsections (4) and (4A) above apply to the forming of an opinion under the enactments mentioned in subsection (3A) above as they apply to the forming of an opinion under subsection (3) above.]

(5) A sentence of detention imposed under this section shall be a sentence of detention in a young offenders institution.

#### Textual Amendments

- F1** Words in s. 207(2) substituted (20.10.1997 for specified purposes and otherwise prosp.) by 1997 c. 48, ss. 62(1), 65(2), **Sch. 1 para. 21(25)(a)**; S.I. 1997/2323, art. 3, **Sch. 1**
- F2** Words in s. 207(2) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 53(2)**
- F3** Words in s. 207(2) substituted (20.10.1997 for specified purposes and otherwise prosp.) by 1997 c. 48, ss. 62(1), 65(2), **Sch. 1 para. 21(25)(b)**; S.I. 1997/2323, art. 3, **Sch. 1**
- F4** S. 207(3A) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), **Sch. 1 para. 4(3)(a)**; S.I. 2007/858, **art. 2(g)**
- F5** S. 207(4A) inserted (1.1.1998) by 1997 c. 48, s. 6(4); S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F6** S. 207(4B) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), **Sch. 1 para. 4(3)(b)**; S.I. 2007/858, **art. 2(g)**

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 207 is up to date with all changes known to be in force on or before 04 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.

[View outstanding changes](#)

**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.)