



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

##### *Trial judge's report*

#### **298 Trial judge's report.**

- (1) Without prejudice to [<sup>F1</sup>section 113] of this Act, the High Court may, in relation to—
- (a) an appeal under section 106(1), 108 [<sup>F2</sup>or 108A] of this Act;
  - (b) an appeal by way of bill of suspension or advocacy; or
  - (c) a petition to the nobile officium,

at any time before the appeal is finally determined or, as the case may be, petition finally disposed of, order the judge who presided at the trial, passed sentence or otherwise disposed of the case to provide to the Clerk of Justiciary a report in writing giving the judge's opinion on the case generally or in relation to any particular matter specified in the order.

- (2) The Clerk of Justiciary shall send a copy of a report provided under subsection (1) above to the convicted person or his solicitor, the Crown Agent and, in relation to cases referred under [<sup>F3</sup>Part XA of this Act, the Commission].

[<sup>F4</sup>(2A) Without prejudice to section 186(3)(b) of this Act, the Sheriff Appeal Court may, in relation to—

- (a) an appeal under section 175(2) to (4) of this Act; or
- (b) an appeal by way of bill of suspension or advocacy,

at any time before the appeal is finally determined order the judge who presided at the trial, passed sentence or otherwise disposed of the case to provide to the Clerk of the Sheriff Appeal Court a report in writing giving the judge's opinion in the case generally or in relation to any particular matter specified in the order.

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 298 is up to date with all changes known to be in force on or before 02 June 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*

- (2B) The Clerk of the Sheriff Appeal Court must send a copy of the report provided under subsection (2A) above to the convicted person or their solicitor, the prosecutor and, in relation to cases referred under Part XA of this Act, the Commission.]
- (3) Subject to [<sup>F5</sup>subsections (2) and (2B)] above, the report of the judge shall be available only to the High Court [<sup>F6</sup>or the Sheriff Appeal Court (as the case may be)], the parties and, on such conditions as may be prescribed by Act of Adjournal, such other persons or classes of persons as may be so prescribed.

#### Textual Amendments

- F1** Words in s. 298(1) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(15)(a)** (with art. 4)
- F2** Words in s. 298(1)(a) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(15)(b)** (with art. 4)
- F3** Words in s. 298(2) substituted (1.4.1999) by 1998 c. 48, s. 62(1), **Sch. 1 para. 21(33)(b)**; S.I. 1999/652, art. 2, **Sch.**(subject to savings and transitional provisions in art. 3)
- F4** S. 298(2A)(2B) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(15)(c)** (with art. 4)
- F5** Words in s. 298(3) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(15)(d)(i)** (with art. 4)
- F6** Words in s. 298(3) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(15)(d)(ii)** (with art. 4)

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

- C1** S. 298(2B) excluded by 2006 asp 10, s 96A(5) (as inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 9(6)** (with art. 4))

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 298 is up to date with all changes known to be in force on or before 02 June 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.

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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.)