



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 5

#### APPEALS AND SCCRC

##### *Appeals*

#### **87 Preliminary pleas in summary cases**

- (1) Section 174 (appeals relating to preliminary pleas) of the 1995 Act is amended as follows.
- (2) In subsection (1)—
  - (a) the words from “with the leave” to “and” are repealed,
  - (b) for the words “this subsection” there is substituted “subsection (1A)(b)”.
- (3) After subsection (1) there is inserted—

“(1A) An appeal under subsection (1) may be taken—

  - (a) in the case of a decision to dismiss the complaint or any part of it, by the prosecutor without the leave of the court,
  - (b) in any other case, only with the leave of the court of first instance (granted on the motion of a party or ex proprio motu).”.
- (4) After subsection (2) there is inserted—

“(2A) Subsection (3) applies where—

  - (a) the court grants leave to appeal under subsection (1), or
  - (b) the prosecutor—
    - (i) indicates an intention to appeal under subsection (1), and
    - (ii) by virtue of subsection (1A)(a), does not require the leave of the court.”.
- (5) In subsection (3), for the words from the beginning to “it” there is substituted “Where this subsection applies, the court of first instance”.

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2016, Section 87 is up to date with all changes known to be in force on or before 29 July 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*

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#### **Commencement Information**

**II** S. 87 in force at 17.1.2017 by [S.S.I. 2016/426](#), art. 2, **sch.**

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[View outstanding changes](#)

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

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)

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

- s. 38(7)(a) words renumbered as s. 38(7)(a) by [2024 asp 5 s. 15\(6\)\(a\)](#)
- s. 38(7)(b) and word inserted by [2024 asp 5 s. 15\(6\)\(b\)](#)
- s. 41(1A) inserted by [2024 asp 5 s. 15\(7\)\(b\)](#)