



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

<sup>F1</sup>PROCEDURE PRIOR TO TRIAL

**E+W+S**

[<sup>F1</sup> CONVICTION AND SENTENCE

### Textual Amendments

<sup>F1</sup> Act repealed (S.) (1.4.1996) by [Criminal Procedure \(Consequential Provisions\) \(Scotland\) Act 1995](#) (c. 40), s. 6(1), [Sch. 5](#) (with ss. 4, 6(2), [Sch. 3](#) paras. 3, 16, [Sch. 6](#))

<sup>F1</sup>*Adjournment and remand*

<sup>F1</sup>**179 Power of court to adjourn a case before sentence. **S****

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<sup>F1</sup>**179A Offence committed by person under supervision etc.: provision of local authority report. **S****

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<sup>F1</sup>**180 Remand for inquiry into physical or mental condition. **S****

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*Admonition and discharge*

<sup>F1</sup>**181 Admonition. **S****

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**F1 182 Absolute discharge. S**

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*Caution*

**F1 182A Caution. S**

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*F1 Probation*

**F1 183 Probation. S**

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**F1 184 Probation orders requiring treatment for mental condition. S**

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**F1 185 Discharge and amendment of probation orders. S**

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**F1 186 Failure to comply with requirement of probation order. S**

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**F1 187 Commission of further offence. S**

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**188 Probation orders relating to persons residing in England. E+W+S**

- (1) Where the court by which a probation order is made under section 183 of this Act [F2(not being a probation order including a requirement [F3which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the M1Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule] )] is satisfied that the offender has attained the age of [F416]years and resides or will reside in England, subsection (2) of the said section shall not apply to the order, but the order shall contain a requirement that he be under the supervision of a probation officer appointed for or assigned to the petty sessions area in which the offender resides or will reside; F5. . . that area shall be named in the order [F6; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.].
- (2) Where a probation order has been made under section 183 of this Act and the court in Scotland by which the order was made or the appropriate court is satisfied F7[(a) that the probationer has attained the age of 16 years;

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- (b) that he proposes to reside, or is residing, in England; and
- (c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside]

, the power of that court to amend the order under Schedule 5 to this Act shall include power to insert the provisions required by subsection (1) of this section [<sup>F8</sup>or to vary any requirement for performance of unpaid work so that such hours as remain to be worked do not exceed one hundred]; and the court may so amend the order without summoning the probationer and without his consent.

- (3) A probation order made or amended by virtue of this section may, notwithstanding section 184(8) of this Act, include a requirement that the probationer shall submit to treatment for his mental condition and—
- (a) subsections (1), (3) and (7) of the said section 184 and [<sup>F9</sup>paragraph 5(3) of Schedule 1A to] the <sup>M1</sup>Powers of Criminal Courts Act 1973 (all of which regulate the making of probation orders which include any such requirement) shall apply to the making of an order which includes any such requirement by virtue of this subsection as they apply to the making of an order which includes any such requirement by virtue of section 184 of this Act and [<sup>F9</sup>paragraph 5 of Schedule 1A to] the said Act of 1973 respectively; and
  - (b) [<sup>F10</sup>sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to] the said Act of 1973 (functions of supervising officer and medical practitioner where such a requirement has been imposed) shall apply in relation to a probationer who is undergoing treatment in England in pursuance of a requirement imposed by virtue of this subsection as they apply in relation to a probationer undergoing such treatment in pursuance of a requirement imposed by virtue of that section.
- (4) Sections 185(1) and 186(1) of this Act shall not apply to any order made or amended under this section; but subject as hereinafter provided the provisions of [<sup>F11</sup>Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
- (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
  - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:

Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.]

- (5) If it appears on information to a justice acting for the petty sessions area [<sup>F12</sup>named in a probation order made or amended under this section that the person to whom the order relates] has been convicted by a court in any part of Great Britain of an offence committed during the period specified in the order, he may issue a summons requiring that person to appear, at the place and time specified therein, before the court in Scotland by which the probation order was made or, if the information is in writing and on oath, may issue a warrant for his arrest, directing that person to be brought before the last-mentioned court.

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- (6) If a warrant for the arrest of a probationer issued under section 187 of this Act by a court is executed in England, and the probationer cannot forthwith be brought before that court, the warrant shall have effect as if it directed him to be brought before a magistrates' court for the place where he is arrested; and the magistrates' court shall commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court in Scotland.
- (7) The court by which a probation order is made or amended in accordance with the provisions of this section shall send three copies of the order to the clerk to the justices for the petty sessions area named therein, together with such documents and information relating to the case as it considers likely to be of assistance to the court acting for that petty sessions area.
- (8) Where a probation order which is amended under subsection (2) of this section is an order to which the provisions of this Act apply by virtue of section 10 of the <sup>M1</sup>Powers of Criminal Courts Act 1973 (which relates to probation orders under that Act relating to persons residing in Scotland) then, notwithstanding anything in that section or this section, the order shall, as from the date of the amendment, have effect in all respects as if it were an order made under section 2 of that Act in the case of a person residing in England.

#### Extent Information

- E1** S. 188(3)-(8) extends also to England and Wales see s. 463(1)(a)

#### Textual Amendments

- F2** Words inserted by Community Service by *Offenders (Scotland) Act 1978 (c. 49, SIF 39:1)*, **Sch. 2 para. 2**
- F3** Words in s. 188(1) substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(i)(with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F4** Word in s. 188(1) substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(ii)(with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F5** Word in s. 188(1) ceased to have effect (1.10.1992) by virtue of *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(iii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F6** Words in s. 188(1) added (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(a)(iv) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F7** S. 188(2)(a)(b)(c) substituted (1.10.1992) for certain words by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(b)(i) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F8** Words in s. 188(2) inserted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(b)(ii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F9** Words in s. 188(3)(a) substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(c)(i) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F10** Words in s. 188(3)(b) substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(c)(ii) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.
- F11** S. 188(4)(a)(b) and proviso substituted (1.10.1992) for certain words by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(d) (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.
- F12** Words in s. 188(5) substituted (1.10.1992) by *Criminal Justice Act 1991 (c. 53)*, s. 16, **Sch. 3**, Pt. II para. 7(3)(e) (with s. 28); S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

- M1** 1973 c. 62(39:1).

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<sup>F1</sup>**189** ..... **E+W+S**

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<sup>F1</sup>**190** ..... **S**

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<sup>F1</sup>**191** **Effects of probation and absolute discharge.** **S**

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<sup>F1</sup>**192** **Probation reports.** **S**

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*<sup>F1</sup>Penalties for statutory offences*

<sup>F1</sup>**193** **Power to mitigate penalties.** **S**

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<sup>F1</sup>**193A** **Fines on conviction on indictment to be without limit.** **S**

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<sup>F1</sup>**193B** ..... **S**

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*Fines*

<sup>F1</sup>**194** **Application of summary procedure provisions relating to fines.** **S**

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<sup>F1</sup>**195** ..... **S**

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<sup>F1</sup>**196** **Fines, etc., may be enforced in other district.** **S**

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<sup>F1</sup>**197**—..... **S**

**202.** .....

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**F1203 Fines payable to H.M. Exchequer. S**

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**F1204 ..... S**

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*Imprisonment, etc.*

**F1205 Punishment for murder. S**

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**F1205A Recommendation as to minimum period of detention for person convicted of murder. S**

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**F1206 Detention of children convicted on indictment. S**

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**F1206A ..... S**

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**F1207 Detention of young offenders. S**

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**F1208– ..... S**  
**211**

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**F1212 ..... S**

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**[F1212A Supervised release orders. E+W+S**

(1) Where a person is convicted of an offence and is sentenced to imprisonment for a term of not less than twelve months but less than four years, the court on passing sentence may, if it considers that it is necessary to do so to protect the public from serious harm from the offender on his release, make such order as is mentioned in subsection (2) below.

[F13(1A) A court shall, before making an order under subsection (1) above, consider a report by a relevant officer of a local authority about the offender and his circumstances and, if the court thinks it necessary, hear that officer.]

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(2) The order referred to in subsection (1) above (to be known as a “supervised release order”) is that the person, during a relevant period—

(a) be under the supervision either of a relevant officer of a local authority or of a probation officer appointed for or assigned to a petty sessions area (such local authority or the justices for such area to be designated under section 14(4) or 15(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993);

[<sup>F14</sup>(b) comply with—

(i) such requirements as may be imposed by the court in the order;] and

(ii) such requirements as that officer may reasonably specify, [<sup>F15</sup>; and

(c) comply with the standard requirements imposed by virtue of subsection (3) (a)(i) below]

for the purpose of securing the good conduct of the person or preventing, or lessening the possibility of, his committing a further offence (whether or not an offence of the kind for which he was sentenced).

(3) A supervised release order—

[<sup>F16</sup>(a) shall—

(i) without prejudice to subsection (2)(b) above, contain such requirements (in this section referred to as the “standard requirements”); and

(ii) be as nearly as possible in such form,  
as may be prescribed by Act of Adjournal;]

(b) for the purposes of any appeal or review constitutes part of the sentence of the person in respect of whom the order is made; and

(c) shall have no effect during any period in which the person is subject to a licence under Part I of the said Act of 1993.

(4) Before making a supervised release order as respects a person the court shall explain to him, in as straightforward a way as is practicable, the effect of the order and the possible consequences for him of any breach of it.

(5) The clerk of the court by which a supervised release order is made in respect of a person shall—

(a) forthwith send a copy of the order to the person and to the Secretary of State; and

(b) within seven days after the date on which the order is made, send to the Secretary of State such documents and information relating to the case and to the person as are likely to be of assistance to a supervising officer.

(6) In this section—

“relevant officer” has the same meaning as in Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“relevant period” means such period as may be specified in the supervised release order, being a period—

(a) not exceeding twelve months after the date of the person’s release; and

(b) no part of which is later than the date by which the entire term of imprisonment specified in his sentence has elapsed; and

“supervising officer” means, where an authority has or justices have been designated as is mentioned in subsection (2)(a) above for the purposes of the

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order, any relevant officer or, as the case may be, probation officer who is for the time being supervising for those purposes the person released.

<sup>F17</sup>[(7) The foregoing provisions of this section apply to a person sentenced under section 207 or 415 of this Act as the provisions apply to a person sentenced to a period of imprisonment.]]

**Textual Amendments**

- F13** S. 212A(1A) inserted (S.) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 36; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F14** S. 212A(2)(b)(i) substituted (S.) (3.2.1995) for s. 212A(b)(i) and the word “and” immediately preceding it by 1994 c. 33, s. 132(a)(i); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F15** S. 212A(2)(c) and the word “and” immediately preceding it added (S.) (3.2.1995) by 1994 c. 33, s. 132(a)(ii); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F16** S. 212A(3)(a) substituted (S.) (3.2.1995) by 1994 c. 33, s. 132(b); S.I. 1995/127, art. 2(1), **Sch. 1** (subject to transitional provisions in art. 2(2)(3))
- F17** S. 212A(7) added (27.7.1993) by 1993 c. 36, s. 69

<sup>F1</sup>213 ..... **S**

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<sup>F1</sup>214 ..... **S**

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<sup>F1</sup>215 **Legal custody.** **S**

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*Miscellaneous provisions as to conviction, sentence, etc.*

<sup>F1</sup>216 **Art and part guilt of statutory offence.** **S**

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<sup>F1</sup>217 **Form of sentence.** **S**

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<sup>F1</sup>217A **Sentence following guilty plea.** **S**

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<sup>F1</sup>218 **Consideration of time spent in custody.** **S**

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**F1219** **Deferred sentence.** **S**

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**F1220** **Capital sentence not competent under this Act.** **S**

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**F1221** **No penal servitude or hard labour.** **S**

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**F1222** **No fees exigible.** **S**

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**F1223** ..... **S**

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**F1223A** **Disqualification in Scotland where vehicle used to commit offence.** **S**

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**F1224** **Warrant of search for forfeited articles.** **S**

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**F1225** ..... **S**

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**F1226** ..... **S**

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**F1227** ..... **S**

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**F1227A** **Correction of entries.** **S**

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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\(7\)](#)