



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

#### CONVICTION AND SENTENCE

##### *Fines*

#### **398 Restriction on imprisonment after fine or caution.**

- (1) Where a court of summary jurisdiction has imposed a fine or ordered the finding of caution without imposing imprisonment in default of payment, it shall not impose imprisonment on an offender for failing to make payment of the fine, unless on an occasion subsequent to that sentence the court has enquired into [<sup>F1</sup>in his presence the reason why the fine has not been paid]; but this subsection shall not apply where the offender is in prison.
- (2) A court of summary jurisdiction may, for the purpose of enabling enquiry to be made under this section—
  - (a) issue a citation requiring the offender to appear before the court at a time and place appointed in the citation; or
  - (b) issue a warrant of apprehension.
- (3) On the failure of the offender to appear before the court in response to a citation under this section, the court may issue a warrant of apprehension.
- (4) A warrant of apprehension issued by a court of summary jurisdiction under subsection (2) of this section shall be in the form, as nearly as may be, of the appropriate form contained in an Act of Adjournal under this Act.
- (5) The minute of procedure in relation to an enquiry into the means of an offender under this section shall be in the form, as nearly as may be, of the appropriate form contained in an Act of Adjournal under this Act.

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*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1975, Section 398 is up to date with all changes known to be in force on or before 26 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)*

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#### Textual Amendments

**F1** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 61**

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

- C1** Ss. 397, 398 applied by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 7(2)**, 47(4)(a)
- C2** [S. 398\(1\)](#) extended (with modifications) (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by [1996 c. 20, s. 80\(2\)\(c\)](#) (with [ss. 70\(2\)](#), [113\(1\)](#), [Sch. 3 para. 4\(4\)](#)); [S.I. 1996/517](#), [arts. 3\(2\)](#), 4-6, **Sch. 2**

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