



# Criminal Justice (Scotland) Act 1980

## CHAPTER 62

### CRIMINAL JUSTICE (SCOTLAND) ACT 1980

#### PART I

##### POLICE POWERS

- 1 Suspect or potential witness may be required by constable to identify himself.
- 2 Detention and questioning at police station.
- 3 Right to have someone informed when arrested or detained.
- 3A Rights of persons arrested or detained in connection with terrorism.
- 3B Provisions as to children detained in connection with terrorism.
- 3C Provisions relating to consultations and access in connection with terrorism.
- 3D (1) In sections 3A to 3C and this section of...
  - 4 Search for offensive weapons.
  - 5 Constable may take drunken person to designated place.

#### PART II

##### PROCEDURE AND EVIDENCE

##### *Procedure*

- 6 Judicial examination.
- 7 Jurisdiction of district courts.
- 8 .....
- 9 Citation of defence witness for precognition.
- 10 Identification parades.
- 11 Discharge and assignation of diets in summary procedure.
- 12 Abolition of mandatory first diet in solemn procedure.

*Status: Point in time view as at 03/02/1995.**Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1980. (See end of Document for details)*

- 13 Written notice of evidence incriminating co-accused in solemn procedure.
- 14 Prevention of delay in trials.
- 15 Intermediate diet in summary procedure.
- 16 Procedure where accused desires to plead guilty under solemn procedure.
- 17 Procedure where accused desires to plead guilty under solemn procedure.
- 18 Desertion of trial diet.
- 19 No case to answer.
- 20 Correction of entries.
- 21 Trial may proceed in accused's absence if he misconducts himself.
- 22 Restrictions on report of proceedings involving person under 16.
- 23 Peremptory challenge of jurors.
- 24 Seclusion of jury after retiral.
- 25 Interpretation of 1975 Act.

*Evidence*

- 26 Routine evidence.
- 27 Parties may examine each other's witnesses etc.
- 28 Co-accused competent witness for defence.
- 29 Spouse to be competent witness.
- 30 Additional evidence and evidence in replication.
- 31 .....
- 32 Evidence by letter of request or on commission.
- 32A Evidence from abroad through television links in solemn proceedings.

*Appeals*

- 33 Solemn appeals.
- 34 Summary appeals.
- 35 Prosecution appeal by bill of advocacy.
- 36 Appeals from decisions on competency and relevancy in summary proceedings.
- 37 Lord Advocate's reference.

*Miscellaneous*

- 38 Summary trial of wilful fire-raising.
- 39 Procedure and evidence in trials for treason.

**PART III****PENALTIES**

- 40 Previous conviction deemed to be admitted.
- 41 Restriction on passing sentence of imprisonment or detention on person not legally represented.
- 42 Restriction on passing sentence of imprisonment on person not previously so dealt with.
- 43 Punishment for murder.
- 44 .....
- 45 Detention of young offenders.
- 46 Increase of certain penalties and other sums.

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- 47 Application to solemn procedure of summary procedure provisions relating to fines.
- 48 Enforcement of High Court fine by sheriff.
- 49 Power to remit fines.
- 50 Maximum period of imprisonment for non-payment of fine in summary proceedings.
- 51 Execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine.
- 52 Recovery of fine or caution by civil diligence.
- 53 Availability of probation after deferred sentence.
- 54 Dealing with person who commits further offence while sentence is deferred.
- 55 .....
- 56 Penalties for drunkenness.
- 57 Penalty for second conviction of assault on constable.

#### **PART IV**

##### COMPENSATION BY OFFENDERS

- 58 Compensation order against convicted person.
- 59 Amount of compensation order.
- 60 Payment under compensation order.
- 61 Guidance as to whether compensation order or fine should be preferred.
- 62 Precedence of compensation order over fine.
- 63 Appeal as regards compensation order.
- 64 Review of compensation order.
- 65 Acts of Adjournal.
- 66 Application of provisions relating to fines to enforcement of compensation orders.
- 67 Effect of compensation order on subsequent award of damages in civil proceedings.

#### **PART V**

##### SPORTING EVENTS: CONTROL OF ALCOHOL ETC.

- 68 Designation of sports grounds and sporting events.
- 69 Alcohol on vehicle travelling to or from sporting event.
- 70 Liability of vehicle operator and his employees and agents.
- 70A Alcohol on certain other vehicles.
- 71 Defences in connection with carriage of alcohol.
- 72 Possession of container at sporting event.
- 72A Possession of fireworks etc. at sporting events.
- 73 Possession of alcohol at sporting event.
- 74 Drunkenness at sporting event.
- 75 Police powers of enforcement.
- 76 Presumption as to contents of container.
- 76 Presumption as to contents of container.
- 77 Interpretation of Part V.

#### **PART VI**

##### MISCELLANEOUS AND GENERAL

- 78 Vandalism.

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- 79 Grants in respect of hostel accomodation for persons under supervision.
- 80 Homosexual offences.
- 81 Interpretation etc.
- 82 Financial provisions.
- 83 Transitional provisions, consequential amendments and repeals.
- 84 Short title, commencement and extent.

## SCHEDULES

### SCHEDULE 1 — Certificates as to proof of certain routine matters

### SCHEDULE 2 — Solemn Appeals

- 1 For section 228 (right of appeal), there shall be substituted...
- 2 Section 229 (certificate by judge that case appealable) shall cease...
- 3 For section 231 (time for appealing), there shall be substituted...
- 4 Section 232 (calculating days of appeal etc.) shall cease to...
- 5 For section 233 (forms of appeal) there shall be substituted...
- 6 In section 234 (presentation of appeal in writing), in each...
- 7 In section 236 (proceedings in sheriff court to be furnished)...
- 8 After section 236 there shall be inserted the following sections—...
- 9 For section 237 (judge’s notes and report to be furnished),...
- 10 In section 238 (admission of appellant to bail)—
- 11 In section 239(1) (clerk to give notice of date of...
- 12 In section 240 (appellant may be present at hearing), the...
- 13 For section 244 (abandonment of appeal), there shall be substituted...
- 14 In section 245(3) (quorum and sitting of High Court) the...
- 15 In section 247 (powers which may be exercised by a...
- 16 For section 252 (supplemental powers of High Court), there shall...
- 17 Section 253(2) (evidence on commission) shall cease to have effect...
- 18 For section 254 (determination of appeals) there shall be substituted...
- 19 For section 255 (substitution of verdict) there shall be substituted...
- 20 In section 256 (frivolous appeals) for the word “notice” there...
- 21 In section 257 (failure to appear at hearing), the words...
- 22 In section 263(1) (prerogative of mercy):— (a) the words “or...
- 23 In Section 264 (disqualification, forfeiture etc.), in each of subsections...
- 24 In section 265 (fines and caution— (a) in subsection (3)...
- 25 In section 269 (extract convictions) for the words “ten days”,...
- 26 In section 270 (custody of trial documents etc.)—
- 27 In section 271 (Clerk of Justiciary to furnish forms etc.)...
- 28 In section 272 (note to be kept of appeal) the...
- 29 In section 273(1) (register of appeals) for the words “a...
- 30 In section 274(1) (shorthand notes of trial) the words “or...
- 31 In section 277 (non-compliance with certain provisions)—
- 32 In section 280 (appeals against hospital orders etc.) for the...

### SCHEDULE 3 — Summary Appeals

- 1 For section 442 (appeal by stated case), there shall be...
- 2 In section 443 (appeals against hospital orders etc.), for the...
- 3 In section 444 (manner and time of appeal)—
- 4 Section 445 (caution by appellant) shall cease to have effect...
- 5 In section 446 (procedure where appellant in custody), for subsection...
- 6 For subsection (1) of section 447 (draft stated case to...

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- 7 In section 448 (adjustment and signature of case)—
- 8 In section 449 (abandonment of appeal)— (a) in subsection (1)—...
- 9 In section 450 (record of procedure on appeal), for the...
- 10 For section 451 (computation of time), there shall be substituted...
- 11 For section 452 (hearing of appeal), there shall be substituted...
- 12 .....
- 13 After section 453 of the 1975 Act there shall be...
- 14 Section 454(2) (which provides in relation to summary proceedings that...

#### SCHEDULE 4 — Abolition of Mandatory First Diet

- 1 In section 68(3) (notice of previous convictions)—
- 2 In section 69 (warrants for citation) for the words “second...
- 3 In section 74 (proceedings against bodies corporate)—
- 4 For section 75 there shall be substituted the following section—...
- 5 For section 76 (notice for first diet) there shall be...
- 6 For section 77 (alteration of diet) there shall be substituted...
- 7 After section 77, there shall be inserted the following section—...
- 8 For section 78 there shall be substituted the following section—...
- 9 For section 80 there shall be substituted the following section—...
- 10 In section 82(2) and (3) (written notice of witnesses and...
- 11 In section 83 (accused to see productions) for the words...
- 12 In section 84 (proof as to productions) for the words...
- 13 In section 96 (notice of jury list) for the words...
- 14 For section 103, there shall be substituted the following section—...
- 15 For section 104 there shall be substituted the following section—...
- 16 Section 105 (High Court case) shall cease to have effect...
- 17 Section 106 (pleas of guilty) shall cease to have effect...
- 18 Section 107 (solicitor of place of second diet may defend...
- 19 Section 108 (certain objections competent only at first diet) shall...
- 20 In section 110 (where sentence delayed, original warrant of commitment...
- 21 In section 115 (sittings dispensed with) for the words “sheriff...
- 22 In section 116 (adjournment of second diet)—
- 23 In section 117 (sitting transferred where few cases) for the...
- 24 Section 120 (notification after first diet of intention to plead...
- 25 Section 121 (second diet-transcript of procedure at first diet) shall...
- 26 Section 122 (review at second diet in High Court) shall...
- 27 In section 127(1) (procedure where trial does not take place)—...

#### SCHEDULE 5 — .....

#### SCHEDULE 6 — Transitional Provisions

- 1 A provision contained in any of sections 6, 12 to...
- 2 A provision contained in any of sections 18(2), 19, 21,...
- 3 A provision contained in any of sections 47, 48, 50...
- 4 A provision contained in any of sections 46(1)(a), (c) and...
- 5 A person serving a sentence of borstal training on the...
- 6 Sections 33, 35 and 37 of, and Schedule 2 to,...
- 7 Section 34 of, and Schedule 3 to, this Act shall...
- 8 A provision contained in paragraph 24 of Schedule 7 to...
- 9 In the application of section 66 of this Act to...
- 10 In the application of section 38A of the Criminal Law...

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## SCHEDULE 7 — Minor and Consequential Amendments

### *The Prisons (Scotland) Act 1952 (c. 61)*

- 1—6 .....  
 7 .....  
 8 In section 29(1) (removal for judicial purposes) after the words...  
 9 In section 30(3) (prisoners unlawfully at large) after the words...  
 10 In section 32(2) (extension throughout the United Kingdom of certain...  
 11 In section 38 (construction of references to sentence of imprisonment)  
 —...  
 12 .....

### *The Criminal Justice (Scotland) Act 1963 (c. 39)*

- 13 In section 9(4)(a) (transfer between institutions), after the words  
 “1957”...  
 14, 15 .....

### *The Legal Aid (Scotland) Act 1967 (c.43)*

- 16 In section 1 (scope and general conditions of legal aid),...  
 17—20 .....

### *The Social Work (Scotland) Act 1968 (c. 49)*

- 21 In section 42 (conduct of children’s hearing and application to...

### *The Road Traffic Act 1972 (c. 20)*

- 22 In section 10(4) (evidence by certificate)— (a) after the word...  
 23 .....

### *The Rehabilitation of Offenders Act 1974 (c. 53)*

- 24 In section 5 (rehabilitation periods for particular sentences)—

### *The Criminal Procedure (Scotland) Act 1975 (c.21)*

- 25 In section 19(1) (prisoners before examination to have access to...  
 26 At the end of section 28 (admission or refusal of...  
 27 In section 71 (manner of service of indictment, etc.), for...  
 28 In section 81 (examination by prosecutor of witnesses not included...  
 29 In section 98 (jurors to be cited by registered letter...  
 30 In section 100(2) (rules of court in relation to jurors)...  
 31 After section 111 there shall be inserted the following section—...  
 32 In the proviso to section 113(4) (judges in High Court),...  
 33 In section 141(1) (accused and spouse competent witnesses for  
 defence)...  
 34 In section 168 (power of court, in respect of certain...  
 35 In section 173(3) (reference and remit of children’s cases by...  
 36 In section 179 (power of court, in solemn proceedings, to...  
 37 In section 193A (fines on conviction on indictment to be...  
 38 In section 212 (recall to young offenders institution on reconviction),...  
 39 For section 215 (legal custody) there shall be substituted the...  
 40 In section 218 (consideration of time spent in custody), the...

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- 41 In section 241 (notice to authorities, etc. of date of...
- 42 In section 242 (notice to Prison Commissioners of attendance of...
- 43 In section 243 (warders to attend court), for the words...
- 44 In section 251(5) (appeal against refusal of application), for the...
- 45 In section 261 (notice of determination of appeal), for the...
- 46 In section 268(4) (reckoning of time spent pending appeal) for...
- 47 In section 282 (Acts of Adjournal), the existing words shall...
- 48 In section 283(1) (application of Part II of this Act)—...
- 49 In section 283A(1) (offences which are to become triable only...
- 50 . . . . .
- 51 At the end of section 298 (all offences to be...
- 52 In section 305 (intimation to solicitor)— (a) for the word...
- 53 In section 310 (incidental applications), after the words “prior to”...
- 54 In section 334 (procedure at first diet, etc.)—
- 55 In section 344(4)(a) (failure of witness to attend for precognition)...
- 56 In section 346(1) (accused and spouse competent witnesses for  
defence),...
- 57 . . . . .
- 58 In section 370 (child charged jointly with person who is...
- 59 In section 380 (power of court, in summary proceedings, to...
- 60 In section 395(2) (provisions as to fines), for the words...
- 61 In section 398(1) (restriction on imprisonment after fine or caution),...
- 62 In section 399 (payment of fine by instalments)—
- 63 At the end of section 401 (supplementary provisions as to...
- 64 In section 407(3) (period of imprisonment for non-payment of fine)...
- 65 In section 409(1) (payment of fine in part by prisoner),...
- 66 In section 411(1) (recovery by civil diligence), for the words...
- 67 In section 421(1) (recall to young offenders institution on reconviction)  
—...
- 68 In section 424 (detention in precincts of court), after the...
- 69 For section 426 (legal custody) there shall be substituted the...
- 70 In section 431 (consideration of time spent in custody), the...
- 71 For section 436 (forfeiture of implements) there shall be substituted...
- 72 In section 457 (Acts of Adjournal), at the end there...
- 73 In section 458 (construction of enactments referring to sentence of...
- 74 In section 459 (construction of enactments referring to detention) for...
- 75 . . . . .
- 76 In section 462(1) (interpretation)— (a) at the appropriate place there...
- 77 In section 463 (extent) after subsection (1) there shall be...
- 78 In Schedule 3 (composition of juries)— (a) in paragraph 2—...

*The Criminal Law Act 1977 (c. 45)*

- 79 In section 39(3) (service of summonses and citations throughout the...

SCHEDULE 8 — Repeals

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