



Criminal Justice (Scotland) Act 1995

1995 CHAPTER 20

PART I

THE COURSE OF JUSTICE

Mental disorder and criminal proceedings

52 Appeal by prosecutor in case involving insanity.

- (1) After section 174ZD of the 1975 Act (inserted by section 51(1) of this Act) there shall be inserted the following section—

“174ZE Appeal by Lord Advocate in case involving insanity.

- (1) The Lord Advocate may appeal to the High Court on a point of law against—
- (a) a finding under subsection (1) of section 174 of this Act that an accused is insane so that his trial cannot proceed or continue;
 - (b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (2) of that section;
 - (c) an acquittal under section 174ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or
 - (d) any order made under section 174ZC(2) of this Act.
- (2) An appeal under subsection (1) above shall be—
- (a) in writing; and
 - (b) lodged—
 - (i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;

Status: Point in time view as at 31/03/1996. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Section 52. (See end of Document for details)

- (ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,
or within such longer period as the High Court may, on cause shown, allow.
- (3) Subsection (1)(a) and (2)(b)(i) above are without prejudice to section 76A(1) of this Act.
- (4) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.
- (5) In disposing of an appeal under subsection (1) above the High Court may—
 - (a) affirm the decision of the court of first instance;
 - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
 - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.”
- (2) After section 375ZD of that Act (inserted by section 51(2) of this Act) there shall be inserted the following section—

“375ZE Appeal by prosecutor in case involving insanity.

- (1) The prosecutor may appeal to the High Court on a point of law against—
 - (a) a finding under subsection (2) of section 375 of this Act that an accused is insane so that his trial cannot proceed or continue;
 - (b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (3A) of that section;
 - (c) an acquittal under section 375ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or
 - (d) any order made under section 375ZC(2) of this Act.
- (2) An appeal under subsection (1) above shall be—
 - (a) in writing; and
 - (b) lodged—
 - (i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;
 - (ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,
or within such longer period as the High Court may, on cause shown, allow.
- (3) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.

Status: *Point in time view as at 31/03/1996. This version of this provision has been superseded.*

Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Section 52. (See end of Document for details)*

- (4) In disposing of an appeal under subsection (1) above the High Court may—
- (a) affirm the decision of the court of first instance;
 - (b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or
 - (c) remit the case to that court with such directions in the matter as the High Court thinks fit.”.

Status:

Point in time view as at 31/03/1996. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Section 52.