



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

[^{F1}PART 10ZA

APPEALS FROM SHERIFF APPEAL COURT

Textual Amendments

- F1** Pt. 10ZA inserted (1.4.2015 for specified purposes, 22.9.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), ss. 119, 138(2); S.S.I. 2015/77, art. 2(2)(3), sch.; S.S.I. 2015/247, art. 2, sch.

194ZB Appeal from the Sheriff Appeal Court

- (1) An appeal on a point of law may be taken to the High Court against any decision of the Sheriff Appeal Court in criminal proceedings, but only with the permission of the High Court.
- (2) An appeal under subsection (1) may be taken by any party to the appeal in the Sheriff Appeal Court.
- (3) The High Court may give permission for an appeal under subsection (1) only if the Court considers that—
 - (a) the appeal would raise an important point of principle or practice, or
 - (b) there is some other compelling reason for the Court to hear the appeal.
- (4) An application for permission for an appeal under subsection (1) must be made before the end of the period of 14 days beginning with the day on which the decision of the Sheriff Appeal Court that would be the subject of the appeal was made.
- (5) The High Court may extend the period of 14 days mentioned in subsection (4) if satisfied that doing so is justified by exceptional circumstances.

Status: Point in time view as at 05/08/2020.

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194ZC Appeals: applications and procedure

- (1) An appeal under section 194ZB(1) is to be made by way of note of appeal.
- (2) A note of appeal must specify the point of law on which the appeal is being made.
- (3) For the purposes of considering and deciding an appeal under section 194ZB(1)—
 - (a) three of the judges of the High Court are to constitute a quorum of the Court,
 - (b) decisions are to be taken by a majority vote of the members of the Court sitting (including the presiding judge),
 - (c) each judge sitting may pronounce a separate opinion.

194ZD Application for permission for appeal: determination by single judge

- (1) An application to the High Court for permission for an appeal under section 194ZB(1) is to be determined by a single judge of the High Court.
- (2) If the judge gives permission for the appeal, the judge may make comments in writing in relation to the appeal.
- (3) If the judge refuses permission for the appeal—
 - (a) the judge must give reasons in writing for the refusal, and
 - (b) where the appellant is on bail and the sentence imposed on the appellant on conviction is one of imprisonment, the judge must grant a warrant to apprehend and imprison the appellant.
- (4) A warrant under subsection (3)(b) does not take effect until the expiry of the period of 14 days mentioned in section 194ZE(1) (or, where that period is extended under section 194ZE(2) before the period being extended expires, until the expiry of the period as so extended) without an application for permission having been lodged by the appellant under section 194ZE(1).

194ZE Further application for permission where single judge refuses permission

- (1) Where the judge refuses permission for the appeal under section 194ZD, the appellant may, within the period of 14 days beginning with the day on which intimation of the decision is given under section 194ZF(2), apply again to the High Court for permission for the appeal.
- (2) The High Court may extend the period of 14 days mentioned in subsection (1), or that period as extended under this subsection, whether or not the period to be extended has expired.
- (3) The High Court may extend a period under subsection (2) only if satisfied that doing so is justified by exceptional circumstances.
- (4) Three of the judges of the High Court are to constitute a quorum for the purposes of considering an application under subsection (1).
- (5) If the High Court gives permission for the appeal, the Court may make comments in writing in relation to the appeal.
- (6) If the High Court refuses permission for the appeal—
 - (a) the Court must give reasons in writing for the refusal, and

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- (b) where the appellant is on bail and the sentence imposed on the appellant on conviction is one of imprisonment, the Court must grant a warrant to apprehend and imprison the appellant.

194ZF Applications for permission: further provision

- (1) An application for permission for an appeal under section 194ZB(1) is to be considered and determined (whether under section 194ZD or 194ZE)—
 - (a) in chambers without the parties being present,
 - (b) by reference to section 194ZB(3), and
 - (c) on the basis of consideration of—
 - (i) the note of appeal under section 194ZC(1), and
 - (ii) such other document or information (if any) as may be specified by act of adjournal.
- (2) The Clerk of Justiciary must, as soon as possible, intimate to the appellant or the appellant's solicitor and to the Crown Agent—
 - (a) a decision under section 194ZD or 194ZE determining the application for permission for an appeal, and
 - (b) in the case of a refusal of permission for the appeal, the reasons for the decision.

194ZG Restriction of grounds of appeal

- (1) Comments in writing made under section 194ZD(2) or 194ZE(5) may specify the arguable grounds of appeal (whether or not they were stated in the note of appeal) on the basis of which permission for the appeal was given.
- (2) Where the arguable grounds of appeal are specified under subsection (1), the appellant may not, except with the permission of the High Court on cause shown, found any aspect of the appeal on a ground of appeal stated in the application for permission but not specified under subsection (1).
- (3) An application by the appellant for permission under subsection (2) must—
 - (a) be made before the end of the period of 14 days beginning with the date of intimation under section 194ZF(2), and
 - (b) be intimated by the appellant to the Crown Agent before the end of that period.
- (4) The High Court may extend the period of 14 days mentioned in subsection (3) if satisfied that doing so is justified by exceptional circumstances.
- (5) The appellant may not, except with the permission of the High Court on cause shown, found any aspect of the appeal on a matter not stated in the note of appeal (or in a duly made amendment or addition to the note of appeal).
- (6) Subsection (5) does not apply in relation to a matter specified as an arguable ground of appeal under subsection (1).

194ZH Disposal of appeals

- (1) In disposing of an appeal under section 194ZB(1), the High Court may—

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- (a) remit the case back to the Sheriff Appeal Court with its opinion and any direction as to further procedure in, or disposal of, the case, or
 - (b) exercise any power that the Sheriff Appeal Court could have exercised in relation to disposal of the appeal proceedings before that Court.
- (2) So far as necessary for the purposes or in consequence of the exercise of a power by the High Court by virtue of subsection (1)(b)—
- (a) references in Part X to the Sheriff Appeal Court are to be read as including references to the High Court, and
 - (b) references in Part X to a verdict of or sentence passed by the inferior court are to be read as including references to a verdict of or sentence passed by the Sheriff Appeal Court in disposing of the appeal before it.
- (3) Subsections (1)(b) and (2) do not affect any power in relation to the consideration or disposal of appeals that the High Court has apart from those subsections.

194ZI Procedure where appellant in custody

- (1) Section 177 (procedure where appellant in custody) applies in the case where a party making an appeal (other than an excepted appeal) under section 194ZB(1) is in custody as it applies in the case where an appellant making an application under section 176 is in custody.
- (2) In subsection (1), “excepted appeal” means an appeal against a decision of the Sheriff Appeal Court in—
- (a) an appeal under section 32, or
 - (b) an appeal under section 177(3).

194ZJ Abandonment of appeal

An appellant in an appeal under section 194ZB(1) may at any time abandon the appeal by minute to that effect—

- (a) signed by the appellant or the appellant's solicitor,
- (b) lodged with the Clerk of Justiciary, and
- (c) intimated to the respondent or the respondent's solicitor.

194ZK Finality of proceedings

- (1) Every interlocutor and sentence (including disposal or order) pronounced by the High Court in disposing of an appeal relating to summary proceedings is final and conclusive and not subject to review by any court whatsoever.
- (2) Subsection (1) is subject to—
- (a) Part XA and section 288AA, and
 - (b) paragraph 13(a) of Schedule 6 to the Scotland Act 1998.
- (3) It is incompetent to stay or suspend any execution or diligence issuing from the High Court under this Part, except for the purposes of an appeal under—
- (a) section 288AA, or
 - (b) paragraph 13(a) of Schedule 6 to the Scotland Act 1998.

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194ZL Computation of time

If any period of time specified in this Part expires on a Saturday, Sunday or court holiday prescribed for the relevant court, the period is extended to expire on the next day which is not a Saturday, Sunday or such a court holiday.]

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