



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART I

#### CRIMINAL COURTS

#### JURISDICTION AND POWERS

*[<sup>F1</sup>JP courts]*

#### Textual Amendments

**F1** S. 6 cross-heading substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), ss. 80, 84(1), [Sch. para. 9\(5\)\(a\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2

#### 6 **[<sup>F2</sup>JP courts: constitution and prosecutor].**

(1) <sup>F3</sup> .....

(2) The jurisdiction and powers of the [<sup>F4</sup>JP court] shall be exercisable by a [<sup>F5</sup>summary sheriff] or by one or more justices, and no decision of the court shall be questioned on the ground that it was not constituted as required by this subsection unless objection was taken on that ground by or on behalf of a party to the proceedings not later than the time when the proceedings or the alleged irregularity began.

(3) All prosecutions in a [<sup>F6</sup>JP court] shall proceed at the instance of the procurator fiscal.

(4) <sup>F7</sup> .....

[<sup>F8</sup>(5) The authority of the procurator fiscal to prosecute in JP courts is without prejudice to the authority of any other person to take proceedings there in pursuance of section 43 (prosecutions and penalties) of the Education (Scotland) Act 1980 (c. 44).]

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[<sup>F9</sup>(6) In this section, “justice” means a justice of the peace.]

**Textual Amendments**

- F2** S. 6 title substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(5\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F3** S. 6(1) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(a\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F4** Words in s. 6(2) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(4\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F5** Words in s. 6(2) substituted (1.4.2016) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [sch. 5 para. 39\(2\)](#); S.S.I. 2016/13, [art. 2 sch.](#) (with [art. 3](#))
- F6** Words in s. 6(3) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F7** S. 6(4) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(c\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F8** S. 6(5) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(d\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F9** S. 6(6) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 9\(1\)\(e\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2

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

- C1** S. 6(2): power to amend conferred (prosp.) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. [63\(2\)](#), 84

7 [<sup>F10</sup>JP courts: jurisdiction and powers].

<sup>F11</sup>(1) .....

<sup>F11</sup>(2) .....

- (3) Except in so far as any enactment (including this Act or an enactment passed after this Act) otherwise provides, it shall be competent for a [<sup>F12</sup>JP court][<sup>F13</sup> to—
  - (a) try any common law or statutory offence which is triable summarily;
  - (b) make such orders and grant such warrants as are appropriate to a court of summary jurisdiction;

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- (c) do anything else (by way of procedure or otherwise) as is appropriate to such a court]
- (4) It shall be competent, whether or not the accused has been previously convicted of an offence inferring dishonest appropriation of property, for any of the following offences to be tried in the [F14JP court]—
  - (a) theft or reset of theft;
  - (b) falsehood, fraud or wilful imposition;
  - (c) breach of trust or embezzlement,where (in any such case) the amount concerned does not exceed level 4 on the standard scale.
- F15(5) .....
- (6) The [F16JP court] shall, without prejudice to any other or wider powers conferred by statute, be entitled on convicting of a common law offence—
  - (a) to impose imprisonment for any period not exceeding 60 days;
  - (b) to impose a fine not exceeding level 4 on the standard scale;
  - (c) to ordain the accused (in lieu of or in addition to such imprisonment or fine) to find caution for good behaviour for any period not exceeding six months and to an amount not exceeding level 4 on the standard scale;
  - (d) failing payment of such fine or on failure to find such caution, to award imprisonment in accordance with section 219 of this Act,but in no case shall the total period of imprisonment imposed in pursuance of this subsection exceed 60 days.
- (7) Without prejudice to any other or wider power conferred by any enactment, it shall not be competent for a [F17JP court], as respects any statutory offence—
  - (a) to impose a sentence of imprisonment for a period exceeding 60 days;
  - (b) to impose a fine of an amount exceeding level 4 on the standard scale; or
  - (c) to ordain an accused person to find caution for any period exceeding six months or to an amount exceeding level 4 on the standard scale.
- (8) The [F18JP court] shall not have jurisdiction to try or to pronounce sentence in the case of any person—
  - (a) F19 .....
  - (b) brought before it accused or suspected of having committed within its jurisdiction any of the following offences—
    - (i) murder, culpable homicide, robbery, rape [F20(whether at common law or under section 1(1) of the Sexual Offences (Scotland) Act 2009 (asp 9)), rape of a young child (under section 18 of that Act)], wilful fire-raising, or attempted wilful fire-raising;
    - (ii) theft by housebreaking, or housebreaking with intent to steal;
    - (iii) theft or reset, falsehood fraud or wilful imposition, breach of trust or embezzlement, where the value of the property is an amount exceeding level 4 on the standard scale;
    - (iv) assault causing the fracture of a limb, assault with intent to ravish, assault to the danger of life, or assault by stabbing;
    - (v) uttering forged documents or uttering forged bank or banker's notes, or offences under the Acts relating to coinage.

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- (9) Without prejudice to subsection (8) above, where either in the preliminary investigation or in the course of the trial of any offence it appears that the offence is one which—
- (a) cannot competently be tried in the court before which an accused is brought; or
  - (b) in the opinion of the court in view of the circumstances of the case, should be dealt with by a higher court,
- the court may take cognizance of the offence and commit the accused to prison for examination for any period not exceeding four days.
- (10) Where an accused is committed as mentioned in subsection (9) above, the prosecutor in the court which commits the accused shall forthwith give notice of the committal to the procurator fiscal of the [F<sup>21</sup>area] within which the offence was committed or to such other official as is entitled to take cognizance of the offence in order that the accused may be dealt with according to law.

#### Textual Amendments

- F10** S. 7 title substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(5)(c)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F11** S. 7(1)(2) repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(2)(a)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F12** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F13** Words in s. 7(3) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(2)(b)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F14** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F15** S. 7(5) repealed (1.4.2016) by *Courts Reform (Scotland) Act 2014 (asp 18)*, s. 138(2), **sch. 5 para. 39(3)**; S.S.I. 2016/13, **art. 2 sch.** (with art. 3)
- F16** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F17** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F18** Words in s. 7(3)-(8) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by *Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*, ss. 80, 84, **Sch. para. 9(4)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2

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- F19** S. 7(8)(a) and word repealed (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(2)(d)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F20** Words in s. 7(8)(b)(i) inserted (1.12.2010) by Sexual Offences (Scotland) Act 2009 (asp 9), ss. 61, 62(2), **Sch. 5 para. 2(3)**; S.S.I. 2010/413, **art. 2**, Sch.
- F21** Word in s. 7(10) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 80, 84, **Sch. para. 9(2)(e)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2

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