



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VIII

#### APPEALS FROM SOLEMN PROCEEDINGS

##### [<sup>F1</sup>107B Prosecutor's right of appeal: decisions on admissibility of evidence

- (1) The prosecutor may appeal to the High Court against a finding, made after the jury is empanelled and before the close of the evidence for the prosecution, that evidence that the prosecution seeks to lead is inadmissible.
- (2) The appeal may be made only with the leave of the court of first instance, granted—
  - (a) on the motion of the prosecutor, or
  - (b) on that court's initiative.
- (3) Any motion for leave to appeal must be made before the close of the case for the prosecution.
- (4) In determining whether to grant leave to appeal the court must consider—
  - (a) whether there are arguable grounds of appeal, and
  - (b) what effect the finding has on the strength of the prosecutor's case.]

#### Textual Amendments

- F1** Ss. 107A-107F inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 74, 206\(1\)](#); [S.S.I. 2011/178](#), [art. 2](#), [sch.](#)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 107B is up to date with all changes known to be in force on or before 08 July 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 44(5A)(5B) inserted by 2024 asp 5 s. 19(2)(c)
- s. 49(1)-(1F) substituted for s. 49(1)-(3) by 2024 asp 5 s. 17(2)(a)
- s. 49(4A)-(4C) inserted by 2024 asp 5 s. 17(2)(c)
- s. 50(7) inserted by 2024 asp 5 s. 16(2)
- s. 51(6)-(8) inserted by 2024 asp 5 s. 18(2)(e)
- s. 70B and cross-heading inserted by 2024 asp 5 s. 16(3)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 142A inserted by 2024 asp 5 s. 16(5)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 175(1)(ca) words substituted by 2024 asp 5 Sch. para. 7(4)(a)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 208A inserted by 2024 asp 5 s. 19(6)
- s. 216(8)-(11) inserted by 2024 asp 5 s. 19(7)
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- s. 288BZA inserted by 2024 asp 5 s. 33(2)

- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)