



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART X

APPEALS FROM SUMMARY PROCEEDINGS

Stated case

183 Stated case: disposal of appeal.

- (1) The High Court may, subject to subsection (3) below and to section 190(1) of this Act, dispose of a stated case by—
 - (a) remitting the cause to the inferior court with its opinion and any direction thereon;
 - (b) affirming the verdict of the inferior court;
 - (c) setting aside the verdict of the inferior court and either quashing the conviction or, subject to subsection (2) below, substituting therefor an amended verdict of guilty; or
 - (d) setting aside the verdict of the inferior court and granting authority to bring a new prosecution in accordance with section 185 of this Act.
- (2) An amended verdict of guilty substituted under subsection (1)(c) above must be one which could have been returned on the complaint before the inferior court.
- (3) The High Court shall, in an appeal—
 - (a) against both conviction and sentence, subject to section 190(1) of this Act, dispose of the appeal against sentence; or
 - (b) by the prosecutor, against sentence, dispose of the appeal, by exercise of the power mentioned in section 189(1) of this Act.
- (4) In setting aside, under subsection (1) above, a verdict the High Court may quash any sentence imposed on the appellant as respects the complaint, and—
 - (a) in a case where it substitutes an amended verdict of guilty, whether or not the sentence related to the verdict set aside; or

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- (b) in any other case, where the sentence did not so relate, may pass another (but not more severe) sentence in substitution for the sentence so quashed.
- (5) For the purposes of subsections (3) and (4) above, “sentence” shall be construed as including disposal or order.
- (6) Where an appeal against acquittal is sustained, the High Court may—
- (a) convict and, subject to subsection (7) below, sentence the respondent;
 - (b) remit the case to the inferior court with instructions to convict and sentence the respondent, who shall be bound to attend any diet fixed by the court for such purpose; or
 - (c) remit the case to the inferior court with their opinion thereon.
- (7) Where the High Court sentences the respondent under subsection (6)(a) above it shall not in any case impose a sentence beyond the maximum sentence which could have been passed by the inferior court.
- (8) Any reference in subsection (6) above to convicting and sentencing shall be construed as including a reference to—
- (a) convicting and making some other disposal; or
 - (b) convicting and deferring sentence.
- (9) The High Court shall have power in an appeal under this Part of this Act to award such expenses both in the High Court and in the inferior court as it may think fit.
- (10) Where, following an appeal, other than an appeal under section 175(2)(b) or (3) of this Act, the appellant remains liable to imprisonment or detention under the sentence of the inferior court, or is so liable under a sentence passed in the appeal proceedings the High Court shall have the power where at the time of disposal of the appeal the appellant—
- (a) was at liberty on bail, to grant warrant to apprehend and imprison or detain the appellant for a term, to run from the date of such apprehension, not longer than that part of the term or terms of imprisonment or detention specified in the sentence brought under review which remained unexpired at the date of liberation;
 - (b) is serving a term or terms of imprisonment or detention imposed in relation to a conviction subsequent to the conviction appealed against, to exercise the like powers in regard to him as may be exercised, in relation to an appeal which has been abandoned, by a court of summary jurisdiction in pursuance of section 177(6) of this Act.

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