



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *General*

#### **196 Sentence following guilty plea.**

[<sup>F1</sup>(1)] In determining what sentence to pass on, or what other disposal or order to make in relation to, an offender who has pled guilty to an offence, a court [<sup>F2</sup>shall] take into account—

- (a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and
- (b) the circumstances in which that indication was given.

[<sup>F3</sup>(1A) In passing sentence on an offender referred to in subsection (1) above, the court shall—

- (a) state whether, having taken account of the matters mentioned in paragraphs (a) and (b) of that subsection, the sentence imposed in respect of the offence is different from that which the court would otherwise have imposed; and
- (b) if it is not, state reasons why it is not.]

[<sup>F4</sup>(1B) Subsection (1C) applies where—

- (a) the court is making an order for lifelong restriction to which section 205ZB applies in respect of an offender or imposing on an offender—
  - (i) a serious terrorism sentence of imprisonment under section 205ZA(2),
  - (ii) a serious terrorism sentence of detention under section 205ZA(6),
  - (iii) a sentence of imprisonment for life to which section 205ZB applies, or
  - (iv) a sentence of detention for life to which section 205ZB applies, and
- (b) the offender has pled guilty to the offence for which the offender is being sentenced.

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*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 196 is up to date with all changes known to be in force on or before 26 June 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. (See end of Document for details) View outstanding changes*

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(1C) The court may, after taking into account the matters mentioned in paragraphs (a) and (b) of subsection (1), impose as the appropriate custodial term or, as the case may be, specify as the punishment part, a term of any length which is not less than 80 per cent of the term which would otherwise be required.]

[<sup>F5</sup>(2) Where the court is passing sentence on an offender under section 205B(2) of this Act and that offender has pled guilty to the offence for which he is being so sentenced, the court may, after taking into account the matters mentioned in paragraphs (a) and (b) of subsection (1) above, pass a sentence of less than seven years imprisonment or, as the case may be, detention but any such sentence shall not be of a term of imprisonment or period of detention of less than five years, two hundred and nineteen days.]

#### Textual Amendments

- F1** S. 196 renumbered as s. 196(1) (20.10.1997) by 1997 c. 48, s. 2(2)(a); S.I. 1997/2323, art. 3, Sch. 1
- F2** Word in s. 196(1) substituted (4.10.2004) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 20(2), 27(1); S.S.I. 2004/405, art. 2, Sch. 1 (subject to savings in arts. 3-5)
- F3** S. 196(1A) inserted (4.10.2004) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 20(3), 27(1); S.S.I. 2004/405, art. 2, Sch. 1 (subject to savings in arts. 3-5)
- F4** S. 196(1B)(1C) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 9, 50(2)(e)
- F5** S. 196(2) inserted (20.10.1997) by 1997 c. 48, s. 2(2)(b); S.I. 1997/2323, art. 3, Sch. 1

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 196 is up to date with all changes known to be in force on or before 26 June 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. 210ZA inserted by 2023 asp 4 s. 5
- 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.)