



# Crime and Punishment (Scotland) Act 1997

## 1997 CHAPTER 48

### PART II

#### CRIMINAL PROCEDURE

##### *Appeals*

#### **<sup>F120</sup> Transfer of rights of appeal of deceased person.**

After section 303 of the 1995 Act there shall be inserted—

*“ Transfer of rights of appeal of deceased person*

#### **303A Transfer of rights of appeal of deceased person.**

- (1) Where a person convicted of an offence has died, any person may, subject to the provisions of this section, apply to the High Court for an order authorising him to institute or continue any appeal which could have been or has been instituted by the deceased.
- (2) An application for an order under this section may be lodged with the Clerk of Justiciary within three months of the deceased's death or at such later time as the Court may, on cause shown, allow.
- (3) Where the Commission makes a reference to the High Court under section 194B of this Act in respect of a person who is deceased, any application under this section must be made within one month of the reference.
- (4) Where an application is made for an order under this section and the applicant—
  - (a) is an executor of the deceased; or
  - (b) otherwise appears to the Court to have a legitimate interest,

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*Changes to legislation: There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 20. (See end of Document for details)*

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the Court shall make an order authorising the applicant to institute or continue any appeal which could have been instituted or continued by the deceased; and, subject to the provisions of this section, any such order may include such ancillary or supplementary provision as the Court thinks fit.

- (5) The person in whose favour an order under this section is made shall from the date of the order be afforded the same rights to carry on the appeal as the deceased enjoyed at the time of his death and, in particular, where any time limit had begun to run against the deceased the person in whose favour an order has been made shall have the benefit of only that portion of the time limit which remained unexpired at the time of the death.
- (6) In this section “appeal” includes any sort of application, whether at common law or under statute, for the review of any conviction, penalty or other order made in respect of the deceased in any criminal proceedings whatsoever.”

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#### **Textual Amendments**

**F1** S. 20 wholly in force at 1.4.1999; s. 20 not in force at Royal Assent see s. 65(2); s. 20 in force for certain purposes at 1.8.1997 by S.I. 1997/1712, art. 3, Sch. (with arts. 4, 5); s. 20 in force insofar as not already in force at 1.4.1999 by S.I. 1999/652, art. 2, Sch. (with art. 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Section 20.