

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 8 – Evidential, Jurisdictional and Procedural Matters

Section 65 - Transcript of record

340. **Section 65** amends section 94 of the 1995 Act to give the High Court of Justiciary the power to regulate the transcription of the record of a trial under solemn procedure where the transcription is required for the purposes of an appeal. Section 65 amends subsection (2) and inserts subsections(2A) to (2F) into section 94 of the 1995 Act. The new provision in subsection (2) requires both the Crown and the defence to seek the approval of the High Court to the production of a transcript of a trial under solemn procedure for the purposes of an appeal and to show cause to the court why such an application should be granted.
341. New subsection (2A) provides that if a judge of the High Court so orders, the Clerk of Justiciary shall direct that a transcript of a record of the trial be made and sent to the appellant. The appellant must apply in writing, have been granted leave to appeal, and must show cause for requiring the transcript to comply with the provisions of section 94(2A) of the 1995 Act. Subsection (2C) requires the appellant to apply in writing to the High Court for a transcript of evidence within 14 days of being granted leave to appeal. The High Court has discretion to extend that period on cause shown. The applicant must also inform the prosecutor of the application. Subsection (2D) gives the prosecutor the right to make written representations about the application to the High Court within 7 days of receiving notification of the application.
342. New subsection (2B) provides that where the Crown Agent has received notification of the grant of leave to appeal to a person and wishes a transcript of evidence of that person's trial, the prosecutor will not be entitled to request a transcript under section 94(2)(a) of the 1995 Act. However, if the prosecutor applies in writing and shows cause, a High Court judge may order that the Clerk of Justiciary direct that a transcript be made and sent to the prosecutor. Where the prosecutor wishes a transcript to be made under section 94 (2B), subsection(2E) requires the prosecutor to apply in writing within 14 days of receiving notification of the grant of leave to appeal. The High Court has discretion to extend that period on cause shown. The prosecutor must also inform the person granted leave to appeal of his/her application. Subsection (2F) gives the person granted leave to appeal the right to make written representations about the application to the High Court within 7 days of receiving notification of the application.