

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 2 - Proceedings

Other provisions

Section 25: Summary appeal time limit

161. This section amends some of the time limits applicable to summary appeals.
162. Subsection (1) amends section 180 of the 1995 Act by inserting a new section (4A) which provides that the High Court may, on the application of the appellant, extend the 14 day period in which the appellant may apply to the High Court for review of the single judge's decision to refuse to grant leave to appeal. The provision is retrospective and applies to appeals where leave was refused and the 14 day period expired before the implementation of this section. There is currently no provision which allows for this 14 day period to be extended.
163. Subsections (2) and (4) amend the provisions of sections 186 (appeals against sentence only) and 194 (computation of time). Currently, where an appeal is lodged under section 186 the clerk of court will within 2 weeks of the passing of the sentence, disposal or order, send to the Clerk of Justiciary the note of appeal which has been lodged by the convicted person together with a report from the judge who sentenced the convicted person or disposed of the case. The clerk of court also requires to send the judge's report to the respondent and appellant. That two week period may be extended by the sheriff principal of the sheriffdom in which the judgement was pronounced. There are, currently, three grounds for granting such an extension under section 186(5) of the 1995 Act: the judge is temporarily absent from duty for any reason; the judge is a part-time sheriff; or the judge is a justice of the peace. Section 186(5) is amended so that the sheriff principal may allow an extension of the 14 day period on cause shown. A similar amendment is made to section 194(2) of the 1995 Act. Section 194(2) allows the sheriff principal to grant an extension of time limits in the same circumstances as specified in section 186(5) where an appeal by stated case is being prepared, adjusted and signed in terms of section 178 and 179 of the 1995 Act. Section 194(2) is amended to allow for the extension of time limits to be granted by the sheriff principal on cause shown.
164. Subsection (3) amends section 187 (leave to appeal against sentence) of the 1995 Act by inserting a new section (3A) to provide that the High Court may, on the application of the appellant, on cause shown, extend the 14 day period in which the appellant may apply to the High Court for review of the single judge's decision to refuse to grant leave to appeal. The provision is retrospective and applies to appeals where the 14 day period expired before the implementation of this section. There is currently no provision which allows for this 14 day period to be extended.