



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART X

#### APPEALS FROM SUMMARY PROCEEDINGS

##### *General*

#### **174 Appeals relating to preliminary pleas.**

(1) Without prejudice to any right of appeal under section 175(1) to (6) or 191 of this Act, a party may, <sup>F1</sup>... in accordance with such procedure as may be prescribed by Act of Adjournal, appeal to the [<sup>F2</sup>Sheriff Appeal Court] against a decision of the court of first instance (other than a decision not to grant leave under [<sup>F3</sup>subsection (1A)(b)]) which relates to such objection or denial as is mentioned in section 144(4) of this Act; but such appeal must be taken not later than [<sup>F4</sup>seven] days after such decision.

[<sup>F5</sup>(1A) An appeal under subsection (1) may be taken—

- (a) in the case of a decision to dismiss the complaint or any part of it, by the prosecutor without the leave of the court,
- (b) in any other case, only with the leave of the court of first instance (granted on the motion of a party or ex proprio motu).]

(2) Where an appeal is taken under subsection (1) above, the [<sup>F6</sup>Sheriff Appeal Court] may postpone the trial diet (if one has been fixed) for such period as appears to it to be appropriate and may, if it thinks fit, direct that such period (or some part of it) shall not count towards any time limit applying in respect of the case.

[<sup>F7</sup>(2A) Subsection (3) applies where—

- (a) the court grants leave to appeal under subsection (1), or
- (b) the prosecutor—
  - (i) indicates an intention to appeal under subsection (1), and
  - (ii) by virtue of subsection (1A)(a), does not require the leave of the court.]

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 174 is up to date with all changes known to be in force on or before 05 April 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*

- (3) [<sup>F8</sup>Where this subsection applies, the court of first instance] shall not proceed to trial at once under subsection (2) of section 146 of this Act; and subsection (3) of that section shall be construed as requiring sufficient time to be allowed for the appeal to be taken.
- (4) In disposing of an appeal under subsection (1) above the [<sup>F9</sup>Sheriff Appeal Court] may affirm the decision of the court of first instance or may remit the case to it with such directions in the matter as it thinks fit; and where the court of first instance had dismissed the complaint, or any part of it, may reverse that decision and direct that the court of first instance fix a trial diet (if it has not already fixed one as regards so much of the complaint as it has not dismissed.)

#### Textual Amendments

- F1** Words in s. 174(1) repealed (17.1.2017) by Criminal Justice (Scotland) Act 2016 (asp 1), **ss. 87(2)(a), 117(2)**; S.S.I. 2016/426, art. 2, sch.
- F2** Words in s. 174(1) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 3**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F3** Words in s. 174(1) substituted (17.1.2017) by Criminal Justice (Scotland) Act 2016 (asp 1), **ss. 87(2)(b), 117(2)**; S.S.I. 2016/426, art. 2, sch.
- F4** Word in s. 174(1) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 72(3), 206(1)**; S.S.I. 2011/178, art. 2, sch.
- F5** S. 174(1A) inserted (17.1.2017) by Criminal Justice (Scotland) Act 2016 (asp 1), **ss. 87(3), 117(2)**; S.S.I. 2016/426, art. 2, sch.
- F6** Words in s. 174(2) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 3**; S.S.I. 2015/247, art. 2, sch. (with art. 6)
- F7** S. 174(2A) inserted (17.1.2017) by Criminal Justice (Scotland) Act 2016 (asp 1), **ss. 87(4), 117(2)**; S.S.I. 2016/426, art. 2, sch.
- F8** Words in s. 174(3) substituted (17.1.2017) by Criminal Justice (Scotland) Act 2016 (asp 1), **ss. 87(5), 117(2)**; S.S.I. 2016/426, art. 2, sch.
- F9** Words in s. 174(4) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 3 para. 3**; S.S.I. 2015/247, art. 2, sch. (with art. 6)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 174 is up to date with all changes known to be in force on or before 05 April 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.

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**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. 73A inserted by 2004 asp 3 s. 2(3)
- 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. 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. 210ZA inserted by 2023 asp 4 s. 5
- 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)
- 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.)