



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XIII

#### MISCELLANEOUS

#### *[<sup>1</sup>Recovery of documents*

#### Textual Amendments

- F1** S. 301A and cross-heading inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 37, 84](#); [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to [art. 10](#)) (as amended by [S.S.I. 2007/527](#))

#### **301A Recovery of documents**

- (1) It is competent for the sheriff court to make, in connection with any criminal proceedings mentioned in subsection (2) below, the orders mentioned in subsection (3) below.
- (2) The proceedings are—
  - (a) solemn proceedings in that sheriff court;
  - (b) summary proceedings—
    - (i) in that sheriff court;
    - (ii) in any JP court in that sheriff court's district.
- (3) The orders are—
  - (a) an order granting commission and diligence for the recovery of documents;
  - (b) an order for the production of documents.
- (4) An application for the purpose may not be made—
  - (a) in connection with solemn proceedings, until the indictment has been served on the accused or the accused has been cited under section 66(4)(b) of this Act;

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**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Cross Heading: Recovery of documents is up to date with all changes known to be in force on or before 26 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*

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- (b) in connection with summary proceedings, until the accused has answered the complaint.
- (5) A decision of the sheriff on an application for an order under subsection (1) above may be appealed to the [<sup>F2</sup>appropriate Appeal Court].
- (6) In an appeal under subsection (5) above, the [<sup>F3</sup>appropriate Appeal Court] may uphold, vary or quash the decision of the sheriff.
- (7) The prosecutor is entitled to be heard in any—
- (a) application for an order under subsection (1) above;
  - (b) appeal under subsection (5) above,
- even if the prosecutor is not a party to the application or (as the case may be) appeal.
- (8) The competence of the High Court to make, in connection with criminal proceedings, the orders mentioned in subsection (3) above is restricted to making them in connection with proceedings in that court.
- [ In this section, “appropriate Appeal Court” means—
- <sup>F4</sup>(9) (a) in the case of an appeal under subsection (5) against a decision made in solemn proceedings, the High Court;
- (b) in the case of an appeal under subsection (5) against a decision made in summary proceedings, the Sheriff Appeal Court.]]

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**Textual Amendments**

- F2** Words in s. 301A(5) substituted (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, **sch. 2 para. 5(20)(a)** (with art. 4)
- F3** Words in s. 301A(6) substituted (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, **sch. 2 para. 5(20)(a)** (with art. 4)
- F4** S. 301A(9) inserted (22.9.2015) by [The Courts Reform \(Scotland\) Act 2014 \(Consequential Provisions No. 2\) Order 2015 \(S.S.I. 2015/338\)](#), art. 1, **sch. 2 para. 5(20)(b)** (with art. 4)
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**Modifications etc. (not altering text)**

- C1** S. 301A(2)(b)(ii) applied (10.12.2007) by [The District Courts and Justices of the Peace \(Scotland\) Order 2007 \(S.S.I. 2007/480\)](#), **art. 4(1)(d)**

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Cross Heading: Recovery of documents is up to date with all changes known to be in force on or before 26 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.](#))