



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Verdict and conviction*

#### **101 Previous convictions: solemn proceedings.**

- (1) Previous convictions against the accused shall not [<sup>F1</sup>, subject to subsection (2) below and section 275A(2) of this Act,] be laid before the jury, nor shall reference be made to them in presence of the jury before the verdict is returned.
- (2) Nothing in subsection (1) above shall prevent the prosecutor—
- (a) asking the accused questions tending to show that he has been convicted of an offence other than that with which he is charged, where he is entitled to do so under section 266 of this Act; or
  - (b) leading evidence of previous convictions where it is competent to do so under section 270 of this Act,
- and nothing in this section or in section 69 of this Act shall prevent evidence of previous convictions being led in any case where such evidence is competent in support of a substantive charge.
- (3) Previous convictions shall not [<sup>F2</sup>, subject to section 275A(1) of this Act,] be laid before the presiding judge until the prosecutor moves
- [<sup>F3</sup>(a)] for sentence [<sup>F4</sup>; or]
  - [<sup>F5</sup>(b) for a risk assessment order (or the court at its own instance proposes to make such an order)],
- and in that event the prosecutor shall lay before the judge a copy of the notice referred to in subsection (2) or (4) of section 69 of this Act.

*Status: Point in time view as at 19/06/2006. This version of this provision has been superseded.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 101 is up to date with all changes known to be in force on or before 01 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)*

- [<sup>F6</sup>(3A) Where, under paragraph (b) of subsection (3) above, the prosecutor lays previous convictions before the judge, he shall also provide the judge with such details regarding the offences in question as are available to him.]
- (4) On the conviction of the accused it shall be competent for the court, subject to subsection (5) below, to amend a notice of previous convictions so laid by deletion or alteration for the purpose of curing any error or defect.
- <sup>F7</sup>(5) . . . . .
- (6) Any conviction which is admitted in evidence by the court shall be entered in the record of the trial.
- (7) Where a person is convicted of an offence, the court may have regard to any previous conviction in respect of that person in deciding on the disposal of the case.
- (8) Where any such intimation as is mentioned in section 69 of this Act is given by the accused, it shall be competent to prove any previous conviction included in a notice under that section in the manner specified in section 285 [<sup>F8</sup>, or as the case may be 286A,] of this Act, and the provisions of the [<sup>F9</sup>section in question] shall apply accordingly.

#### Textual Amendments

- F1** Words in s. 101(1) inserted (1.11.2002) by Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9), s. 10(1)(a); S.S.I. 2002/443, art. 3 (with art. 4(5))
- F2** Words in s. 101(3) inserted (1.11.2002) by Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9), s. 10(1)(b); S.S.I. 2002/443, art. 3 (with art. 4(5))
- F3** Words in s. 101(3) renumbered as s. 101(3)(a) (19.6.2006) by virtue of Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, Sch. 1 para. 2(3)(a); S.S.I. 2006/332, art. 2(1)(2)
- F4** Word in s. 101(3) inserted (19.6.2006) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, Sch. 1 para. 2(3)(a); S.S.I. 2006/332, art. 2(1)(2)
- F5** S. 101(3)(b) inserted (19.6.2006) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, Sch. 1 para. 2(3)(a); S.S.I. 2006/332, art. 2(1)(2)
- F6** S. 101(3A) inserted (19.6.2006) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 1(2), 89, Sch. 1 para. 2(3)(b); S.S.I. 2006/332, art. 2(1)(2)
- F7** S. 101(5) repealed (1.8.1997) by 1997 c. 48, ss. 31, 62(2), Sch. 3; S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)
- F8** Words in s. 101(8) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 57(2)(a), 89; S.S.I. 2003/288, art. 2, Sch.
- F9** Words in s. 101(8) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 57(2)(b), 89; S.S.I. 2003/288, art. 2, Sch.

**Status:**

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**Changes to legislation:**

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