



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VIII

APPEALS FROM SOLEMN PROCEEDINGS

113 Judge's report.

(1) [^{F1}Subject to subsections (1A) to (1D),] As soon as is reasonably practicable after receiving the copy note of appeal sent to him under [^{F2}any of paragraphs (a) to (d) of] section 110(1) of this Act, the judge who presided at the trial shall furnish the Clerk of Justiciary with a written report giving the judge's opinion on the case generally and on the grounds contained in the note of appeal.

[^{F3}(1A) Subsections (1B) to (1D) apply where the copy note of appeal mentioned in subsection (1) relates to an appeal by virtue of section 11(7) of the Double Jeopardy (Scotland) Act 2011 (asp 16).

(1B) The reference in subsection (1) to the judge who presided at the trial is to be construed as a reference to—

- (a) the judge who presided at the trial for an offence mentioned in section 11(2) of that Act resulting in the appellant's acquittal; and
- (b) where subsection (1C) applies, the judge who presided at the trial resulting in the conviction to which the copy note of appeal relates.

(1C) This subsection applies—

- (a) where, in connection with the appeal, the High Court calls for the report to be furnished by the judge mentioned in subsection (1B)(b); and
- (b) it is reasonably practicable for the judge to furnish the report.

(1D) For the purposes of subsections (1) to (1C), it is irrelevant whether or not the judge mentioned in subsection (1B)(b) had previously furnished a report under subsection (1).]

(2) The Clerk of Justiciary shall send a copy of the judge's report—

- (a) to the convicted person or his solicitor;

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 113 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

- (b) to the Crown Agent; and
 - (c) in a case referred under [^{F4}Part XA of this Act, to the Commission].
- (3) Where the judge’s report is not furnished as mentioned in [^{F5}subsections (1) to (1D)] above, the High Court may call for the report to be furnished within such period as it may specify or, if it thinks fit, hear and determine the appeal without the report.
- (4) Subject to subsection (2) above, the report of the judge shall be available only to the High Court, the parties and, on such conditions as may be prescribed by Act of Adjournal, such other persons or classes of persons as may be so prescribed.

Textual Amendments

- F1** Words in s. 113(1) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [sch. para. 11\(a\)](#); S.S.I. 2011/365, art. 3
- F2** Words in s. 113(1) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 76\(2\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** S. 113(1A)-(1D) inserted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [sch. para. 11\(b\)](#); S.S.I. 2011/365, art. 3
- F4** Words in s. 113(2)(c) substituted (1.4.1999) by [1997 c. 48](#), s. 62(1), [Sch. 1 para. 21\(16\)](#); S.I. 1999/652, art. 2, [Sch.](#) (subject to savings and transitional provisions in art. 3)
- F5** Words in s. 113(3) substituted (28.11.2011) by [Double Jeopardy \(Scotland\) Act 2011 \(asp 16\)](#), s. 17(3), [sch. para. 11\(c\)](#); S.S.I. 2011/365, art. 3

Modifications etc. (not altering text)

- C1** S. 113(2)-(4) applied (26.8.2002) by [Act of Adjournal \(Criminal Procedure Rules\) 1996 \(S.I. 1996/513\)](#), rule 15.15(3) (as inserted (26.8.2002) by [Act of Adjournal \(Criminal Appeals\) 2002 \(S.S.I. 2002/387\)](#), [para. 3\(4\)](#))

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 113 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.)