



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Imprisonment, etc.

[^{F1}205B Minimum sentence for third conviction of certain offences relating to drug trafficking.

(1) This section applies where—

- (a) a person is convicted on indictment in the High Court of a class A drug trafficking offence committed after the commencement of section 2 of the Crime and Punishment (Scotland) Act 1997;
- (b) at the time when that offence was committed, he had attained the age of at least 18 years and had [^{F2}two previous convictions for relevant offences], irrespective of—
 - (i) whether either of those offences was committed before or after the commencement of section 2 of the Crime and Punishment (Scotland) Act 1997;
 - (ii) the court in which any such conviction was obtained; and
 - (iii) his age at the time of the commission of either of those offences; and
- (c) one of the offences mentioned in paragraph (b) above was committed after he had been convicted of the other.

[In subsection (1), “ relevant offence ” means—

- ^{F3}(1A) (a) in relation to a conviction by a court in any part of the United Kingdom, a class A drug trafficking offence;
- (b) in relation to a conviction by a court in a member State of the European Union [^{F4}which the court passing sentence considers appropriate to take into account], an offence that is equivalent to a class A drug trafficking offence.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 205B 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

- (1B) Any issue of equivalence arising in pursuance of subsection (1A)(b) is for the court to determine.]
- (2) Subject to subsection (3) below, where this section applies the court shall sentence the person—
- (a) where he has attained the age of 21 years, to a term of imprisonment of at least seven years; and
 - (b) where he has attained the age of 18 years but is under the age of 21 years, to detention in a young offenders institution for a period of at least seven years.
- (3) The court shall not impose the sentence otherwise required by subsection (2) above where it is of the opinion that there are specific circumstances which—
- (a) relate to any of the offences or to the offender; and
 - (b) would make that sentence unjust.
- (4) For the purposes of section 106(2) of this Act a sentence passed under subsection (2) above in respect of a conviction for a class A drug trafficking offence shall not be regarded as a sentence fixed by law for that offence.
- (5) In this section “ class A drug trafficking offence ” means a drug trafficking offence committed in respect of a class A drug; and for this purpose—
- “ class A drug ” has the same meaning as in the ^{M1} Misuse of Drugs Act 1971;
- [^{F5} “ drug trafficking offence ” means an offence specified in paragraph 2 or (so far as it relates to that paragraph) paragraph 10 of Schedule 4 to the Proceeds of Crime Act 2002;]]
- [^{F6}(6) Any reference in this section to a previous conviction includes, where relevant, a conviction by a court in any part of the United Kingdom or in any member State of the European Union.]

Textual Amendments

- F1** S. 205B inserted (20.10.1997) by 1997 c. 48, s. 2(1); S.I. 1997/2323, art. 3, Sch. 1
- F2** Words in s. 205B(1)(b) substituted (13.12.2010 for all purposes in respect of offences committed on or after this date) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 71(1), 206(1), Sch. 4 para. 6(a); S.S.I. 2010/413, art. 2, Sch.
- F3** S. 205B(1A)(1B) inserted (13.12.2010 for all purposes in respect of offences committed on or after this date) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 71(1), 206(1), Sch. 4 para. 6(b); S.S.I. 2010/413, art. 2, Sch.
- F4** Words in s. 205B(1A)(b) substituted (31.12.2020) by The Criminal Justice (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/339), regs. 1(3), 13(12)(a) (with reg. 16)
- F5** In s. 205B(5) definition of "drug trafficking offence" substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458, Sch. 11 para. 29(3); S.S.I. 2003/210, art. 2, Sch. (subject to arts. 3-7)
- F6** S. 205B(6) inserted (31.12.2020) by The Criminal Justice (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/339), regs. 1(3), 13(12)(b) (with reg. 16)

Marginal Citations

- M1** 1971 c.38.

Changes to legislation:

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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.)