



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART III

#### BAIL

#### 32 Bail appeal.

- (1) [<sup>F1</sup>Where, in any case, bail] is refused or where the [<sup>F2</sup>accused] is dissatisfied with the amount of bail fixed, he may appeal to the [<sup>F3</sup>appropriate Appeal Court] which may, in its discretion order intimation to the Lord Advocate or, as the case may be, the prosecutor.
- (2) Where, in any case, <sup>F4</sup> . . . bail is granted, or, in summary proceedings an accused is ordained to appear, the public prosecutor, if dissatisfied—
  - (a) with the decision allowing bail;
  - (b) with the amount of bail fixed; or
  - (c) in summary proceedings, that the accused has been ordained to appear, may appeal to the [<sup>F5</sup>appropriate Appeal Court], and the [<sup>F2</sup>accused] shall not be liberated, subject to subsection (7) below, until the appeal by the prosecutor is disposed of.
- [<sup>F6</sup>(2A) The public prosecutor may, in relation to an accused admitted to bail under section 65(8C) of this Act, appeal under subsection (2) above only in relation to the conditions imposed on bail.]
- (3) Written notice of appeal shall be immediately given to the opposite party by a party appealing under this section.
- [<sup>F7</sup>(3A) A notice of appeal under this section is to be lodged with the clerk of the court from which the appeal is to be taken.
- (3B) When an appeal is made under this section, that clerk shall without delay—
  - (a) send a copy of the notice of appeal to the judge whose decision is the subject of the appeal; and
  - (b) request the judge to provide a report of the reasons for that decision.

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- (3C) The judge shall, as soon as is reasonably practicable, provide that clerk with the judge's report of those reasons.
- [<sup>F8</sup>(3CA) The clerk of the court from which the appeal is to be taken (unless that clerk is the Clerk of Justiciary) must—
- (a) send the notice of appeal without delay to the clerk of the appropriate Appeal Court, and
  - (b) before the end of the day after the day of receipt of the notice of appeal, send the judge's report (if provided by then) to the clerk of the appropriate Appeal Court.]
- (3F) The [<sup>F9</sup>clerk of the appropriate Appeal Court] shall, upon receipt of the notice of appeal, without delay fix a diet for the hearing of the appeal.
- (3G) The [<sup>F10</sup>clerk of the appropriate Appeal Court] shall send a copy of the judge's report to—
- (a) the accused or his solicitor; and
  - (b) the Crown Agent.
- (3H) [<sup>F11</sup>In a case where the Sheriff Appeal Court is the appropriate Appeal Court, if] the judge's report is not sent as mentioned in subsection [<sup>F12</sup>(3CA)] above—
- (a) the [<sup>F13</sup>appropriate Appeal Court] may call for the report to be submitted to it within such period as it may specify; or
  - (b) if it thinks fit, hear and determine the appeal without the report.
- (3I) Subject to subsection (3G) above, the judge's report shall be available only to the [<sup>F14</sup>appropriate Appeal Court], the parties and, on such conditions as may be prescribed by Act of Adjournal, such other persons or classes of person as may be so prescribed.]
- (4) An appeal under this section shall be disposed of by the [<sup>F15</sup>appropriate Appeal Court] or any [<sup>F16</sup>judge of the appropriate Appeal Court] in court or in chambers after such inquiry and hearing of parties as shall seem just.
- (5) Where an [<sup>F2</sup>accused] in an appeal under this section is under 21 years of age, section 51 of this Act shall apply to the [<sup>F17</sup>appropriate Appeal Court] or, as the case may be, the [<sup>F18</sup>judge of the appropriate Appeal Court] when disposing of the appeal as it applies to a court when remanding or committing a person of the [<sup>F2</sup>accused's] age for trial or sentence.
- (6) In the event of the appeal of the public prosecutor under this section being refused, the court may award expenses against him.
- (7) When an appeal is taken by the public prosecutor either against the grant of bail or against the amount fixed, the [<sup>F2</sup>accused] to whom bail has been granted [<sup>F19</sup>(other than an accused to whom subsection (7B) below applies)] shall, if the bail fixed has been found by him, be liberated after 72 hours from the granting of [<sup>F20</sup>bail], whether the appeal has been disposed of or not, unless the [<sup>F21</sup>appropriate Appeal Court] grants an order for his further detention in custody.
- [<sup>F22</sup>(7B) Where, in relation to an accused admitted to bail under section 65(8C) of this Act, the public prosecutor appeals against the conditions imposed on bail, the accused—
- (a) may continue to be detained under the committal warrant for no more than 72 hours from the granting of bail or for such longer period as [<sup>F23</sup>the appropriate Appeal Court] may allow; and

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- (b) on expiry of that period, shall, whether the appeal has been disposed of or not, be released on bail subject to the conditions imposed.]
- (8) In computing the period mentioned in subsection (7) above, Sundays and public holidays, whether general or court holidays, shall be excluded.
- (9) When an appeal is taken under this section by the prosecutor in summary proceedings against the fact that the accused has been ordained to appear, subsections (7) and (8) above shall apply as they apply in the case of an appeal against the granting of bail or the amount fixed.
- (10) Notice to the governor of the prison of the issue of an order such as is mentioned in subsection (7) above within the time mentioned in that subsection bearing to be sent by the [F<sup>24</sup>clerk of the appropriate Appeal Court] or the Crown Agent shall be sufficient warrant for the detention of the [F<sup>2</sup>accused] pending arrival of the order in due course of post.
- [F<sup>25</sup>(11) In this section—
- “appropriate Appeal Court” means—
- (a) in the case of an appeal under this section against a bail decision of the High Court or a judge of the High Court, that Court,
- (b) in the case of an appeal under this section against a bail decision of the Sheriff Appeal Court, the High Court,
- (c) in the case of an appeal under this section against a bail decision of a sheriff (whether in solemn or summary proceedings) or a JP court, the Sheriff Appeal Court,
- “judge of the appropriate Appeal Court” means—
- (a) in a case where the High Court is the appropriate Appeal Court, judge of that Court,
- (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, Appeal Sheriff,
- “the clerk of the appropriate Appeal Court” means—
- (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary,
- (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of that Court.
- (12) In a case where the Sheriff Appeal Court is the appropriate Appeal Court, the references in subsections (3G)(b) and (10) to the Crown Agent are to be read as references to the prosecutor.]

#### Textual Amendments

- F1** Words in s. 32(1) substituted (9.8.2000) by 2000 asp 9, s. 4
- F2** Words in s. 32(1)(2)(5)(7)(10) substituted (9.8.2000) by 2000 asp 9, s. 12, Sch. para. 7(2)(a)
- F3** Words in s. 32(1) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), ss. 122(2), 138(2); S.S.I. 2015/247, art. 2, sch. (with art. 7)
- F4** Words in s. 32(2) repealed (9.8.2000) by 2000 asp 9, s. 12, Sch. para. 7(2)(b)
- F5** Words in s. 32(2) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), ss. 122(2), 138(2); S.S.I. 2015/247, art. 2, sch. (with art. 7)
- F6** S. 32(2A) inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), Sch. para. 11(a); S.S.I. 2004/405, art. 2, Sch. 1 (subject to arts. 3-5)

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- F7** S. 32(3A)-(3I) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 4(2)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F8** S. 32(3CA) substituted for s. 32(3D)(3E) (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(3)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F9** Words in s. 32(3F) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(4)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F10** Words in s. 32(3G) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(4)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F11** Words in s. 32(3H) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(5)(a)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F12** Word in s. 32(3H) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(5)(b)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F13** Words in s. 32(3H)(a) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(2)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F14** Words in s. 32(3I) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(2)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F15** Words in s. 32(4) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(2)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F16** Words in s. 32(4) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(6)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F17** Words in s. 32(5) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(2)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F18** Words in s. 32(5) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(6)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F19** Words s. 32(7) inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), **ss. 25**, 27(1), **Sch. para. 11(b)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F20** Words in s. 32(7) substituted (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 7(2)(c)**
- F21** Words in s. 32(7) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(2)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F22** S. 32(7B) inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), **ss. 25**, 27(1), **Sch. para. 11(c)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F23** Words in s. 32(7B)(a) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(7)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F24** Words in s. 32(10) substituted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(4)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)
- F25** S. 32(11)(12) inserted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), **ss. 122(8)**, 138(2); S.S.I. 2015/247, **art. 2**, sch. (with art. 7)

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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.)