



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART V

CHILDREN AND YOUNG PERSONS

42 Prosecution of children.

- (1) [^{F1}A child aged 12 years or more but under 16 years may not] be prosecuted for any offence except on the instructions of the Lord Advocate, or at [^{F2}the instance of the Lord Advocate]; and no court other than the High Court and the sheriff court shall have jurisdiction over [^{F3}such a child] for an offence.
- (2) Where a child is charged with any offence, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.
- ^{F4}(3)
- (4) For the purpose of enforcing the attendance of a parent or guardian and enabling him to take part in the proceedings and enabling orders to be made against him, rules may be made under section 305 of this Act, for applying, with the necessary adaptations and modifications, such of the provisions of this Act relating to summary proceedings as appear appropriate for the purpose.
- (5) The parent or guardian whose attendance is required under this section is—
 - (a) the parent who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the ^{M1}Children (Scotland) Act 1995) in relation to the child; or
 - (b) the guardian having actual possession and control of him.
- (6) The attendance of the parent of a child shall not be required under this section in any case where the child was before the institution of the proceedings removed from the care or charge of his parent by an order of a court.

Status: Point in time view as at 25/01/2018.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 42 is up to date with all changes known to be in force on or before 23 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)

^{F5}(7)

(8) Where a local authority receive notification under [^{F6}section 24 of the Criminal Justice (Scotland) Act 2016] they shall make such investigations and submit to the court a report which shall contain such information as to the home surroundings of the child as appear to them will assist the court in the disposal of his case, and the report shall contain information, which the appropriate education authority shall have a duty to supply, as to the school record, health and character of the child.

(9) Any child ^{F7}... being conveyed to or from any criminal court, or waiting before or after attendance in such court, shall be prevented from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child is jointly charged.

^{F8}(10)

Textual Amendments

- F1** Words in s. 42(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 52(3)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F2** Words in s. 42(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 52(3)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Words in s. 42(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 52(3)(c)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** S. 42(3) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 31(a)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F5** S. 42(7) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 31(b)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F6** Words in s. 42(8) substituted (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 31(c)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F7** Words in s. 42(9) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 31(d)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)
- F8** S. 42(10) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 31(e)**; S.S.I. 2017/345, art. 3, sch. (with art. 4)

Marginal Citations

- M1** 1995 c.36.

Status:

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