



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VI

#### MENTAL DISORDER

##### *Appeals under Part VI*

- 63 Appeal by prosecutor [<sup>F1</sup>where accused found not criminally responsible or unfit for trial].**
- (1) The prosecutor may appeal to the [<sup>F2</sup>appropriate Appeal Court] on a point of law against—
- (a) a finding under subsection (1) of section 54 of this Act that an accused is [<sup>F3</sup>unfit for trial] so that his trial cannot proceed or continue;
  - [<sup>F4</sup>(b) an acquittal by reason of the special defence set out in section 51A of this Act;]
  - (c) an acquittal under section 55(3) of this Act (whether or not [<sup>F5</sup>by reason of the special defence set out in section 51A of this Act]); or
  - [<sup>F6</sup>(d) .....
- (2) An appeal under subsection (1) above shall be—
- (a) in writing; and
  - (b) lodged—
    - (i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;
    - (ii) in the case of an appeal under paragraph (c) [<sup>F7</sup>...of that subsection, not later than seven days after the conclusion of the examination of facts,
- or within such longer period as the [<sup>F8</sup>appropriate Appeal Court] may, on cause shown, allow.

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 63 is up to date with all changes known to be in force on or before 09 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*

- (3) Where the examination of facts was held in connection with proceedings on indictment, subsections (1)(a) and (2)(b)(i) above are without prejudice to section 74(1) of this Act.
- (4) A respondent in an appeal under this subsection shall be entitled to be present at the hearing of the appeal unless the [<sup>F9</sup>appropriate Appeal Court] determines that his presence is not practicable or appropriate.
- (5) In disposing of an appeal under subsection (1) above the [<sup>F10</sup>appropriate Appeal Court] may—
- affirm the decision of the court of first instance;
  - make any other finding [<sup>F11</sup>order or disposal] which that court could have made at the time when it made the finding [<sup>F11</sup>or acquittal] which is the subject of the appeal; or
  - remit the case to that court with such directions in the matter as the [<sup>F10</sup>appropriate Appeal Court] thinks fit.
- (6) In this section, “the prosecutor” means, in relation to proceedings on indictment, the Lord Advocate.
- [<sup>F12</sup>(7) In this section, “appropriate Appeal Court” means—
- in the case of an appeal under subsection (1) against a finding or an acquittal made in proceedings on indictment, the High Court;
  - in the case of an appeal under subsection (1) against a finding or an acquittal made in summary proceedings, the Sheriff Appeal Court.]

#### Textual Amendments

- F1** Words in s. 63 heading substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 43**; S.S.I. 2012/160, art. 3, sch.
- F2** Words in s. 63(1) substituted (22.9.2015) by *The Courts Reform (Scotland) Act 2014* (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(3)(a)** (with art. 4)
- F3** Words in s. 63(1)(a) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 43(a)**; S.S.I. 2012/160, art. 3, sch.
- F4** S. 63(1)(b) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 43(b)**; S.S.I. 2012/160, art. 3, sch.
- F5** Words in s. 63(1)(c) substituted (with application in accordance with art. 3 of the commencing S.S.I.) by *Criminal Justice and Licensing (Scotland) Act 2010* (asp 13), s. 206(1), **sch. 7 para. 43(c)**; S.S.I. 2012/160, art. 3, sch.
- F6** S. 63(1)(d) repealed (1.1.1998) by 1997 c. 48, s. 62(1)(2), Sch. 1 para. 21(8)(a), **Sch. 3**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F7** Words in s. 63(2)(b)(ii) repealed (1.1.1998) by 1997 c. 48, s. 62(1)(2), Sch. 1 para. 21(8)(b), **Sch. 3**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F8** Words in s. 63(2) substituted (22.9.2015) by *The Courts Reform (Scotland) Act 2014* (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(3)(a)** (with art. 4)
- F9** Words in s. 63(4) substituted (22.9.2015) by *The Courts Reform (Scotland) Act 2014* (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(3)(a)** (with art. 4)
- F10** Words in s. 63(5) substituted (22.9.2015) by *The Courts Reform (Scotland) Act 2014* (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(3)(a)** (with art. 4)

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- F11** Words in s. 63(5)(b) substituted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(8)(c)(i)(ii)**; S.I. 1997/2323, art. 4, **Sch. 2** (subject to art. 7)
- F12** S. 63(7) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(3)(b)** (with art. 4)

**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.)