



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PROCEDURE PRIOR TO TRIAL

#### *First Diet*

#### [<sup>F1</sup>103 Pleas of guilty.

- (1) Where at any diet the accused tenders a plea of guilty to the indictment or any part thereof he [<sup>F2</sup>shall do so in open court and] shall be required to sign a written copy of the plea (if he is able to do so); and the judge shall countersign such copy.
- (2) Where the plea is to part only of the charge and the prosecutor does not accept such plea, such non-acceptance shall be recorded.
- (3) Where a person charged on indictment with any offence tenders a plea of guilty to any other offence of which he could competently be found guilty on the trial of such indictment, and that plea is accepted by the prosecutor, it shall be competent to convict such person of the offence to which he has so pled guilty and to sentence him accordingly.
- (4) Nothing in subsection (1) above shall require a plea by or on behalf of a company to be signed.]

#### Textual Amendments

- F1** S. 103 substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 4 para. 14, **Sch. 6 para. 1**
- F2** Words in s. 103(1) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 38**; S.I. 1996/517, arts. 3(2), 4-6, Sch. 2

#### [<sup>F3</sup>104 Remit to High Court for sentence.

- (1) Where at any diet in proceedings on indictment in the sheriff court, sentence falls to be imposed but the sheriff holds that any competent sentence which he can impose

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is inadequate so that the question of sentence is appropriate for the High Court, he shall—

- (a) endorse upon the record copy of the indictment a certificate of the plea or the verdict (as the case may be);
- (b) by interlocutor written on such record copy remit the convicted person to the High Court for sentence; and
- (c) append to such interlocutor a note of his reasons for such remit;

and such remit shall be sufficient warrant to bring the accused before the High Court for sentence and shall remain in force until the convicted person is sentenced.

[ Where under any enactment an offence is punishable on conviction on indictment by <sup>F4</sup>(1A) imprisonment for a term exceeding three years but the enactment either expressly or impliedly restricts the power of the sheriff to impose a sentence of imprisonment for a term exceeding three years, it shall be competent for the sheriff to remit the convicted person to the High Court for sentence under subsection (1) above; and it shall be competent for the High Court to pass any sentence which it could have passed if the person had been convicted before it.]

(2) When the Clerk of Justiciary receives the record copy of the indictment he shall send a copy of the note of reasons to the convicted person or his solicitor and to the Crown Agent.

(3) Subject to subsection (2) above, the note of reasons shall be available only to the High Court and the parties.]

**Textual Amendments**

**F3** S. 104 substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), Sch. 4 para. 15, **Sch. 6 para. 1**

**F4** S. 104(1A) inserted by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), **ss. 47(4)(a), 58(2)**

**105**— ..... <sup>F5</sup>  
**107.**

**Textual Amendments**

**F5** Ss. 74(3), 105–107, 120–122 repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), Sch. 6 para. 1, 8, **Sch. 8**

**108 Certain objections competent only at first diet.**

[<sup>F6</sup>(1)] No objection by the accused to the validity of the citation against him, on the ground of any discrepancy between the record copy of the indictment and the copy served on him, or on account of any error or deficiency in such service copy or in the notice of citation, shall be competent [<sup>F7</sup>except by leave of the court on cause shown, unless his intention to raise the objection is stated in a notice under section [<sup>F8</sup>75A(2) or] 76(1)(a) of this Act], and no such discrepancy, error or deficiency shall entitle the accused to object to plead to such indictment unless the [<sup>F9</sup>court] shall be satisfied that the same tended substantially to mislead and prejudice the accused.

[<sup>F10</sup>(2) Except by leave of the court on cause shown—

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- (a) no matter relating to the competency or relevancy of the indictment shall be raised;
- (b) no plea in bar of trial shall be submitted; <sup>F11</sup> . . .
- (c) no application for separation or conjunction of charges or trials shall be submitted, [<sup>F12</sup>; and
- (d) no preliminary objection under section 67 of this Act shall be raised,] unless the intention to do so has been stated in a notice under section [<sup>F13</sup>75A(2) or] 76(1) of this Act.]

**Textual Amendments**

- F6** Word inserted by virtue of Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 4 para. 19(b), **Sch. 6 para. 1**
- F7** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 4 para. 19(a), **Sch. 6 para. 1**
- F8** Words in S. 108(1) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 39(a)**; S.I 1996/517, arts. 3(2), 4-6, Sch. 2
- F9** Words substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 39:1), s. 23(2), **Sch. 2 para. 18**
- F10** S. 108(2) inserted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 4 para. 19(b), **Sch. 6 para. 1**
- F11** Word in s. 108(2)(b) repealed (18.9.1993) by 1993 c. 9, s. 47(1)(3), Sch. 5 para. 1(4)(a), **Sch. 7 Pt. I** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, arts. 3(3), 4(1)(c), **Sch. 2**
- F12** S. 108(2)(d) and the word “and” immediately preceding inserted (18.9.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(4)(b)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, arts. 3(3), 4(1)(c), **Sch. 2**
- F13** Words in S. 108(2) inserted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 39(b)**; S.I 1996/517, arts. 3(2), 4-6, Sch. 2

**109 Interlocutor of relevancy unnecessary.**

It shall not be necessary to enter upon the record an interlocutor finding the indictment relevant and, when objections are taken to the relevancy, it shall not be necessary to enter on the record copy of the indictment or in the record any other minute setting forth how such objections were disposed of, except that such objections were sustained or repelled, and such minute shall be signed by the clerk of court.

<sup>F14</sup> **110** .....

**Textual Amendments**

- F14** S. 110 repealed (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117, **Sch. 6 Pt. I para. 40, Sch. 7 Pt. I**; S.I 1996/517, arts. 3(2), 4-6, Sch. 2

**111 Postponement on old warrant where diet deserted.**

Where a diet is deserted *pro loco et tempore*, or where a diet is postponed or adjourned, or an order issued for the trial to take place at a different place from that first given

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notice of, it shall not be necessary that a new warrant should be granted for the incarceration of the accused, but the warrant of commitment on which he is at the time in custody till liberated in due course of law shall continue in force.

[<sup>F15</sup>**111A Computation of period.**

Where the last day of any period mentioned in section 75, 76, 76A or 80 of this Act falls on a Saturday, Sunday or court holiday, such period shall extend to and include the next day which is not a Saturday, Sunday or court holiday.]

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**Textual Amendments**

**F15** S. 111A inserted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), Sch. 6 para. 1, **Sch. 7 para. 31**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act certain function transferred. by [1994 c. 39 s. 127\(1\)128](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 168(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(6\)\(b\)](#)
- s. 364(c)(ii) amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(14\)\(b\)](#)
- s. 413(3) (defn.of "the appropriate local authority") para. (a)(b) amended by [1994 c. 39 Sch. 13 para. 97\(5\)](#)
- s. 413(3) (defns. of "care" and "the 1968 Act") repealed (prosp.) by [1995 c. 36 s. 105\(4\)\(5\)Sch. 4 para. 24\(17\)\(b\)\(i\)Sch. 5](#)
- s. 462 (defns. of "child" "children's hearing" "place of safety" "residential establishment" and "supervision requirement") amended (prosp.) by [1995 c. 36 s. 105\(4\)Sch. 4 para. 24\(18\)](#)
- s. 462 (defns. of "crime" and "prosecutor") applied (prosp.) by [1995 c. 36 s. 53\(7\)](#)