



Criminal Procedure (Scotland) Act 1975

1975 CHAPTER 21

PART I

SOLEMN PROCEDURE

PROCEDURE PRIOR TO TRIAL

Delay in trial

101 Prevention of delay in trials

- (1) Any prisoner who is in prison on a commitment until liberated in due course of law, and who shall not be served with an indictment within 60 days of such commitment, shall be entitled to give notice to the Lord Advocate through the Crown Agent that, if he is not served with an indictment within 14 days of such notice, the prosecutor will be called on to show cause before the High Court why such accused person should not be released from prison and, upon a note being presented to that court setting forth that such notice has been given and that no indictment has been served within that period of 14 days, the court shall ordain the prosecutor forthwith to show cause as aforesaid and, where cause is not shown to the satisfaction of the court, the court shall grant warrant ordering such person to be released at the expiry of three days from the issuing of such order, unless within said three days an indictment be served upon him.
- (2) Where any accused person is liberated as aforesaid, it shall be competent for the prosecutor to raise an indictment against him, and to obtain from a judge of the jurisdiction to which he is cited for the second diet, or a judge of the High Court, a warrant authorising his apprehension and recommitment to prison to await his trial on such indictment, and in the event of the trial on such indictment not taking place at the second diet thereof, or any other day to which it may be adjourned or postponed by the court, the High Court shall, upon the application of the accused, made by a note addressed to the court, and after hearing parties, consider the whole circumstances of the case, and may in its discretion order the immediate release of the accused, or may grant warrant ordering him to be released on a day named in the warrant, unless he

Status: This is the original version (as it was originally enacted).

shall on or before such day be remitted to the knowledge of an assize on indictment, or may decline to pronounce any order.

- (3) Where the accused has been incarcerated for 80 days, and an indictment is served upon him, and he is detained in custody after expiry of that period of 80 days, then, unless he is brought to trial and the trial concluded within 110 days of the date of his being committed till liberated in due course of law, he shall be forthwith set at liberty and declared for ever free from all question or process for the crime with which he was charged.
- (4) Where the accused has been liberated from prison after having been committed till liberated in due course of law, he shall not be detained in prison more than 110 days in all; but unless his trial is brought to a conclusion before the expiry of the 110th day of confinement in prison subsequent to commitment till liberated in due course of law, he shall be forthwith set at liberty and declared for ever free from all question or process for the crime for which he was committed.
- (5) Notwithstanding the generality of the foregoing provisions of this section, in any case brought before it under this section, the High Court may order the accused to be kept in custody, with a view to trial, for such further period or periods as to the court may seem just if the court is satisfied that the trial ought to be allowed to proceed after the expiry of the said period of 110 days where the delay in prosecuting to a verdict is due to—
 - (a) the illness of the accused or of a judge or juror,
 - (b) the absence or illness of any necessary witness, or
 - (c) any other sufficient cause for which the prosecutor is not responsible.