



Criminal Justice (Scotland) Act 1980

1980 CHAPTER 62

PART II

PROCEDURE AND EVIDENCE

Procedure

19 No case to answer

(1) After section 140 of the 1975 Act there shall be inserted the following section—

“140A No case to answer.

- (1) Immediately after the close of the evidence for the prosecution, the accused may intimate to the court his desire to make a submission that he has no case to answer both—
 - (a) on an offence charged in the indictment; and
 - (b) on any other offence of which he could be convicted under the indictment were the offence charged the only offence so charged.
- (2) Such a submission shall be heard by the judge in the absence of the jury.
- (3) If, after hearing both parties, the judge is satisfied that the evidence led by the prosecution is insufficient in law to justify the accused being convicted of the offence charged in respect of which the submission has been made or of such other offence as is mentioned, in relation to that offence, in paragraph (b) of subsection (1) above, he shall acquit him of the offence charged in respect of which the submission has been made and the trial shall proceed only in respect of any other offence charged in the indictment.
- (4) If, after hearing both parties, the judge is not satisfied as is mentioned in subsection (3) above, he shall reject the submission and the trial shall proceed, with the accused entitled to give evidence and call witnesses, as if such submission had not been made.”

(2) After section 345 of the 1975 Act there shall be inserted the following section—

“345A No case to answer.

- (1) Immediately after the close of the evidence for the prosecution, the accused may intimate to the court his desire to make a submission that he has no case to answer both—
 - (a) on an offence charged in the complaint; and
 - (b) on any other offence of which he could be convicted under the complaint were the offence charged the only offence so charged.
- (2) If, after hearing both parties, the court is satisfied that the evidence led by the prosecution is insufficient in law to justify the accused being convicted of the offence charged in respect of which the submission has been made or of such other offence as is mentioned, in relation to that offence, in paragraph (b) of subsection (1) above, it shall acquit him of the offence charged in respect of which the submission has been made, and the trial shall proceed only in respect of any other offence charged in the complaint.
- (3) If, after hearing both parties, the court is not satisfied as is mentioned in subsection (2) above, it shall reject the submission and the trial shall proceed, with the accused entitled to give evidence and call witnesses, as if such submission had not been made.”