



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Jurors for sittings*

#### **84 Juries: returns of jurors and preparation of lists.**

- (1) For the purposes of a trial, the sheriff principal shall return such number of jurors as he thinks fit or, in relation to a trial in the High Court, such other number as the Lord Justice Clerk or any Lord Commissioner of Justiciary may direct.
- (2) The Lord Justice General, whom failing the Lord Justice Clerk, may give directions as to the areas from which and the proportions in which jurors are to be summoned for trials to be held in the High Court, and for any such trial the sheriff principal of the sheriffdom in which the trial is to take place shall requisition the required number of jurors from the areas and in the proportions so specified.
- (3) Where a sitting of the High Court is to be held at a town in which the High Court does not usually sit, the jury summoned to try any case in such a sitting shall be summoned from the [<sup>F1</sup>lists] of potential jurors of the sheriff court district in which the town is situated.
- [<sup>F2</sup>(4) For the purpose of a trial in the sheriff court, the sheriff principal must furnish the clerk of court with a list of names, containing the number of persons required, from lists of potential jurors of—
  - (a) the sheriff court district in which the trial is to be held (the “local district”), and
  - (b) if the sheriff principal considers it appropriate, any other sheriff court district or districts in the sheriffdom in which the trial is to be held (“other districts”).
- (4A) Where the sheriff principal furnishes a list containing names of potential jurors of other districts, the sheriff principal may determine the proportion as between the local district and the other districts in which jurors are to be summoned.]

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- (5) The sheriff principal, in any return of jurors made by him to a court, shall take the names in regular order, beginning at the top of the <sup>F3</sup>lists] of potential jurors in each of the sheriff court districts, as required; and as often as a juror is returned to him, he shall mark or cause to be marked, in the <sup>F3</sup>lists] of potential jurors of the respective sheriff court districts the date when any such juror was returned to serve; and in any such return he shall commence with the name immediately after the last in the preceding return, without regard to the court to which the return was last made, and taking the subsequent names in the order in which they are entered, as directed by this subsection, and so to the end of the lists respectively.
- (6) Where a person whose name has been entered in the lists of potential jurors dies, or ceases to be qualified to serve as a juror, the sheriff principal, in making returns of jurors in accordance with the <sup>M1</sup>Jurors (Scotland) Act 1825, shall pass over the name of that person, but the date at which his name has been so passed over, and the reason therefor, shall be entered at the time in the lists of potential jurors.
- (7) <sup>F4</sup>.....
- (8) The persons to serve as jurors at <sup>F5</sup>trials in the High Court sitting at a particular place on a particular day] shall be listed and their names and addresses shall be inserted in one roll <sup>F6</sup>. . . , and the list made up under this section shall be known as the “list of assize”.
- (9) When more than one case is set down for trial <sup>F7</sup>in the High Court sitting at a particular place on a particular day] , it shall not be necessary to prepare more than one list of assize, and such list <sup>F8</sup>. . . shall be the list of assize for <sup>F9</sup>all trials to be held in the High Court sitting in that particular place on that particular day] ; and the persons included in such list shall be summoned to serve generally for <sup>F10</sup>all such trials] , and only one general execution of citation shall be returned against them; and a copy of the list of assize, certified by one of the clerks of court, shall have the like effect, for all purposes for which the list may be required, as the principal list of assize authenticated as aforesaid.
- (10) No irregularity in—
  - (a) making up the lists in accordance with the provisions of this Act;
  - (b) transmitting the lists;
  - (c) <sup>F11</sup>.....
  - (d) summoning jurors; or
  - (e) in returning any execution of citation,
 shall constitute an objection to jurors whose names are included in the jury list, subject to the ruling of the court in relation to the effect of an objection as to any criminal act by which jurors may be returned to serve in any case contrary to this Act or the <sup>M2</sup>Jurors (Scotland) Act 1825.

**Textual Amendments**

**F1** Word in s. 84(3) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 93(2)(a)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.

**F2** S. 84(4)(4A) substituted for s. 84(4) (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 93(2)(b)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.

**F3** Word in s. 84(5) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 93(2)(c)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.

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- F4** S. 84(7) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. **93(2)(d)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.
- F5** Words in s. 84(8) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(a)(i)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F6** Words in s. 84(8) repealed (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(a)(ii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F7** Words in s. 84(9) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(b)(i)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F8** Words in s. 84(9) repealed (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(b)(ii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F9** Words in s. 84(9) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(b)(iii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F10** Words in s. 84(9) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(b)(iv)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F11** S. 84(10)(c) repealed (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 29(c)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)

#### Marginal Citations

- M1** 6 Geo. 4. 1825 c.22.  
**M2** 6 Geo 4. 1825 c.22.

## 85 Juries: citation and attendance of jurors.

- (1) It shall not be necessary to serve any list of jurors upon the accused, <sup>F12</sup>. . .
- [<sup>F13</sup>[<sup>F14</sup>(2) A list of jurors shall—
- (a) be prepared and kept in such form and manner; and
  - (b) contain such minimum number of names,
- as may be prescribed by Act of Adjournal.]
- (2A) The clerk of the court before which the trial is take place shall, on an application made to him by or on behalf of an accused, supply the accused, free of charge, on the day on which the trial diet is called, and before the oath has been administered to the jurors for the trial of the accused, with a copy of a list of jurors prepared under subsection (2) above.
- (2B) Where an accused has been supplied under subsection (2A) above with a list of jurors—
- (a) neither he nor any person acting on his behalf shall make a copy of that list, or any part thereof; and
  - (b) he or his representative shall return the list to the clerk of the court after the oath has been administered to the jurors for his trial.
- (2C) A person who fails to comply with subsection (2B) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.]
- (3) It shall not be necessary to summon all the jurors contained in any list of jurors under this Act, but it shall be competent to summon such jurors only, commencing from the top of the list, as may be necessary to ensure a sufficient number for the trial of the cases which remain for trial at the date of the citation of the jurors, and such number shall be fixed by the clerk of the court in which the trial diet is to be called, or in

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any case in the High Court by the Clerk of Justiciary, and the jurors who are not so summoned shall be placed upon the next list issued, until they have attended to serve.

- (4) [<sup>F15</sup> The sheriff clerk of—
- (a) the sheriffdom in which the High Court is to sit, or
  - (b) the sheriff court district in which a trial in the sheriff court is to be held,
- shall] fill up and sign a proper citation addressed to each <sup>F16</sup> . . . juror, and shall cause the same to be transmitted to him by letter, sent to him at his place of residence as stated in the lists of potential jurors by registered post or recorded delivery or to be served on him by an officer of law; and a certificate under the hand of such sheriff clerk of the citation of any jurors or juror in the manner provided in this subsection shall be a legal citation.
- (5) The sheriff clerk of the sheriffdom in which [<sup>F17</sup> the High Court is to sit on any particular day] shall issue citations to the whole jurors required for [<sup>F18</sup> trials to be held in the High Court sitting in the sheriffdom on that day] , whether the jurors reside in that or in any other sheriffdom.
- (6) Persons cited to attend as jurors may, unless they have been excused in respect thereof under section 1 of the <sup>M3</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, be fined up to level 3 on the standard scale if they fail to attend in compliance with the citation.
- (7) A fine imposed under subsection (6) above may, on application, be remitted—
- (a) by a Lord Commissioner of Justiciary where imposed in the High Court;
  - (b) by the sheriff court where imposed in the sheriff court,
- and no court fees or expenses shall be exigible in respect of any such application.
- (8) A person shall not be exempted by sex or marriage from the liability to serve as a juror.

#### Textual Amendments

- F12** Words in s. 85(1) repealed (1.8.1997) by 1997 c. 48, ss. 58(2), 62(2), **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F13** S. 85(2)(2A)(2B)(2C) substituted (1.8.1997) for s. 85(2) by 1997 c. 48, s. 58(3); S.I. 1997/1714, art. 3, **Sch.** (subject to arts. 4, 5)
- F14** S. 85(2) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 30(a)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F15** Words in s. 85(4) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 93(3)(a)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.
- F16** Word in s. 85(4) repealed (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 93(3)(b)**, 206(1); S.S.I. 2010/413, **art. 2**, Sch.
- F17** Words in s. 85(5) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 30(c)(i)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F18** Words in s. 85(5) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 3), ss. 25, 27(1), **Sch. para. 30(c)(ii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)

#### Marginal Citations

- M3** 1980 c.55.

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## 86 Jurors: excusal and objections.

- (1) Where, before a juror is sworn to serve, the parties jointly apply for him to be excused the court shall, notwithstanding that no reason is given in the application, excuse that juror from service.
- (2) Nothing in subsection (1) above shall affect the right of the accused or the prosecutor to object to any juror on cause shown.
- (3) If any objection is taken to a juror on cause shown and such objection is founded on the want of sufficient qualification as provided by section 1(1) of the <sup>M4</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, such objection shall be proved only by the oath of the juror objected to.
- (4) No objection to a juror shall be competent after he has been sworn to serve.

### Marginal Citations

M4 1980 c.55.

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