



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

Agreed evidence

256 Agreements and admissions as to evidence.

- (1) In any trial it shall not be necessary for the accused or for the prosecutor—
 - (a) to prove any fact which is admitted by the other; or
 - (b) to prove any document, the terms and application of which are not in dispute between them,and, without prejudice to paragraph 1 of Schedule 8 to this Act, copies of any documents may, by agreement of the parties, be accepted as equivalent to the originals.
- (2) For the purposes of subsection (1) above, any admission or agreement shall be made by lodging with the clerk of court a minute in that behalf signed—
 - (a) in the case of an admission, by the party making the admission or, if that party is the accused and he is legally represented, by his counsel or solicitor; and
 - (b) in the case of an agreement, by the prosecutor and the accused or, if he is legally represented, his counsel or solicitor.
- (3) Where a minute has been signed and lodged as aforesaid, any facts and documents admitted or agreed thereby shall be deemed to have been duly proved.

257 Duty to seek agreement of evidence.

- (1) Subject to subsection (2) below, the prosecutor and the accused (or each of the accused if more than one) shall each identify any facts which are facts—
 - (a) which he would, apart from this section, be seeking to prove;
 - (b) which he considers unlikely to be disputed by the other party (or by any of the other parties); and

Status: Point in time view as at 01/09/2015.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Agreed evidence is up to date with all changes known to be in force on or before 05 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)

- (c) in proof of which he does not wish to lead oral evidence, and shall, without prejudice to section 258 of this Act, take all reasonable steps to secure the agreement of the other party (or each of the other parties) to them; and the other party (or each of the other parties) shall take all reasonable steps to reach such agreement.
- (2) Subsection (1) above shall not apply in relation to proceedings as respects which the accused (or any of the accused if more than one) is not legally represented.
- (3) The duty under subsection (1) above applies—
- (a) in relation to proceedings on indictment, from the date of service of the indictment until the swearing of the jury or, where intimation is given under section 76 of this Act, the date of that intimation; and
 - (b) in relation to summary proceedings, from the date on which the accused pleads not guilty until the swearing of the first witness or, where the accused tenders a plea of guilty at any time before the first witness is sworn, the date when he does so.
- [^{F1}(4) Without prejudice to subsection (3) above, [^{F2}in relation to proceedings on indictment], the parties to the proceedings shall, in complying with the duty under subsection (1) above, seek to ensure that the facts to be identified, and the steps to be taken in relation to those facts, [^{F3} are identified and taken—
- (a) in the case of the High Court, before the preliminary hearing;
 - (b) in the case of the sheriff court, before the first diet]
- [Without prejudice to subsection (3) above, in relation to summary proceedings, the ^{F4}(5) parties to the proceedings shall, in complying with the duty under subsection (1) above, seek to ensure that the facts to be identified, and the steps to be taken in relation to those facts, are identified and taken before any intermediate diet that is to be held.]]

Textual Amendments

- F1** S. 257(4) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 40](#); [S.S.I. 2004/405](#), [art. 2](#), Sch. 1
- F2** Words in s. 257(4) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 30\(a\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (as amended by [S.S.I. 2007/527](#))
- F3** Words in s. 257(4) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 30\(b\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (as amended by [S.S.I. 2007/527](#))
- F4** S. 257(5) added (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(1\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to [art. 7](#)) (as amended by [S.S.I. 2007/527](#))

258 Uncontroversial evidence.

- (1) This section applies where, in any criminal proceedings, a party (in this section referred to as “the first party”) considers that facts which that party would otherwise be seeking to prove are unlikely to be disputed by the other parties to the proceedings.
- (2) Where this section applies, the first party may prepare and sign a statement—
- (a) specifying the facts concerned; or
 - (b) referring to such facts as set out in a document annexed to the statement, and shall, not less than [^{F5}the relevant period] before the [^{F6}relevant] diet, serve a copy of the statement and any such document on every other party.

Status: Point in time view as at 01/09/2015.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Agreed evidence is up to date with all changes known to be in force on or before 05 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)

- [^{F7}(2ZA) In subsection (2) above, the “ relevant period ” means—
- (a) where the relevant diet for the purpose of that subsection is an intermediate diet in summary proceedings, 7 days;
 - (b) in any other case, 14 days.]
- [^{F8}(2A) In subsection (2) above, “ the relevant diet ” means—
- (a) in the case of proceedings in the High Court, the preliminary hearing;
 - [in summary proceedings in which an intermediate diet is to be held, that diet;]
 - ^{F9}(aa) in any other case, the trial diet.]
- (3) Unless any other party serves on the first party, not more than seven days after the date of service of the copy on him under subsection (2) above or by such later time as the court may in special circumstances allow, a notice that he challenges any fact specified or referred to in the statement, the facts so specified or referred to shall be deemed to have been conclusively proved.
- (4) Where a notice is served under subsection (3) above, the facts specified or referred to in the statement shall be deemed to have been conclusively proved only in so far as unchallenged in the notice.
- [^{F10}(4A) Where a notice is served under subsection (3) above ^{F11}. . . , the court may, on the application of any party to the proceedings made not less than 48 hours before the relevant diet, direct that any challenge in the notice to any fact is to be disregarded for the purposes of subsection (4) above if the court considers the challenge to be unjustified.
- [Where in summary proceedings the relevant diet for the purposes of subsection (4A) ^{F12}(4AA) above is an intermediate diet, an application under that subsection may be made at (or at any time before) that diet.]
- (4B) In subsection (4A) above, “ the relevant diet ” means—
- (a) in proceedings in the High Court, the preliminary hearing; ^{F13}. . .
 - (b) in [^{F14}solemn] proceedings in the sheriff court, the first diet.
 - [in summary proceedings—
 - ^{F15}(c) (i) in which an intermediate diet is to be held, that diet;
(ii) in which such a diet is not to be held, the trial diet.]
- (4C) In proceedings in the High Court, the Court may, on cause shown, allow an application under subsection (4A) above to be made after the time limit specified in that subsection.
- [In summary proceedings, the court may allow an application under subsection (4A) ^{F16}(4D) above to be made late if the court is satisfied that a timeous application would not have been practicable.]]
- (5) Subsections (3) and (4) above shall not preclude a party from leading evidence of circumstances relevant to, or other evidence in explanation of, any fact specified or referred to in the statement.
- (6) Notwithstanding subsections (3) and (4) above, the court—
- (a) may, on the application of any party, where it is satisfied that there are special circumstances; and

Status: Point in time view as at 01/09/2015.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Agreed evidence is up to date with all changes known to be in force on or before 05 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)

- (b) shall, on the joint application of all the parties,
direct that the presumptions in those subsections shall not apply in relation to such fact specified or referred to in the statement as is specified in the direction.
- (7) An application under subsection (6) above may be made at any time after the commencement of the trial and before the commencement of the prosecutor's address to the court on the evidence.
- (8) Where the court makes a direction under subsection (6) above it shall, unless all the parties otherwise agree, adjourn the trial and may, without prejudice to section 268 of this Act, permit any party to lead evidence as to any such fact as is specified in the direction, notwithstanding that a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 67(5) and 78(4) of this Act has not been given.
- (9) A copy of a statement or a notice required, under this section, to be served on any party shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served such copy or notice together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.

Textual Amendments

- F5** Words in s. 258(2) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(a\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F6** Word in s. 258(2) substituted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), [ss. 25, 27\(1\)](#), [Sch. para. 41\(a\)](#); [S.S.I. 2004/405](#), [art. 2](#), Sch. 1 (with savings in arts. 3-5)
- F7** S. 258(2ZA) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(b\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F8** S. 258(2A) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), [ss. 25, 27\(1\)](#), [Sch. para. 41\(b\)](#); [S.S.I. 2004/405](#), [art. 2](#), Sch. 1 (with savings in arts. 3-5)
- F9** S. 258(2A)(aa) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(c\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F10** S. 258(4A)-(4C) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), [ss. 16, 27\(1\)](#); [S.S.I. 2004/405](#), [art. 2](#), Sch. 1 (with savings in arts. 3-5)
- F11** Words in s. 258(4A) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(d\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F12** S. 258(4AA) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 7 para. 61](#); [S.S.I. 2011/178](#), art. 2, sch.
- F13** Word immediately following paragraph (a) in s. 258(4B) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(e\)\(i\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F14** Word in s. 258(4B)(b) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(e\)\(ii\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F15** S. 258(4B)(c) added (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(2\)\(e\)\(iii\)](#), 84; [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))
- F16** S. 258(4D) added (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 20\(3\)](#), 84 (as added by [S.S.I. 2007/540](#), [art. 4](#)); [S.S.I. 2007/479](#), [art. 3\(1\)](#), Sch. (subject to art. 7) (as amended by [S.S.I. 2007/527](#))

Status:

Point in time view as at 01/09/2015.

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Cross Heading: Agreed evidence is up to date with all changes known to be in force on or before 05 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.