



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART IX

SUMMARY PROCEEDINGS

First diet

144 Procedure at first diet

- (1) Where the accused is present at the first calling of the case in a summary prosecution and—
- the complaint has been served on him, or
 - the complaint or the substance thereof has been read to him, or
 - he has legal assistance in his defence,
- he shall, unless the court adjourns the case under the section 145 of this Act and subject to subsection (4) below, be asked to plead to the charge.
- (2) Where the accused is not present at a calling of the case in a summary prosecution and either—
- the prosecutor produces to the court written intimation that the accused pleads not guilty or pleads guilty and the court is satisfied that the intimation has been made or authorised by the accused; or
 - counsel or a solicitor, or a person not being counsel or a solicitor who satisfies the court that he is authorised by the accused, appears on behalf of the accused and tenders a plea of not guilty or a plea of guilty,
- subsection (3) below shall apply.
- (3) Where this subsection applies—
- in the case of a plea of not guilty, this Part of this Act except section 146(2) shall apply in like manner as if the accused had appeared and tendered the plea; and
 - in the case of a plea of guilty, the court may, if the prosecutor accepts the plea, proceed to hear and dispose of the case in the absence of the accused in like

Status: This is the original version (as it was originally enacted).

manner as if he had appeared and pled guilty, or may, if it thinks fit, continue the case to another diet and require the attendance of the accused with a view to pronouncing sentence in his presence.

- (4) Any objection to the competency or relevancy of a summary complaint or the proceedings thereon, or any denial that the accused is the person charged by the police with the offence shall be stated before the accused pleads to the charge or any plea is tendered on his behalf.
- (5) No objection or denial such as is mentioned in subsection (4) above shall be allowed to be stated or issued at any future diet in the case except with the leave of the court, which may be granted only on cause shown.
- (6) Where in pursuance of subsection (3)(b) above the court proceeds to hear and dispose of a case in the absence of the accused, it shall not pronounce a sentence of imprisonment or of detention in a young offenders institution, remand centre or other establishment.
- (7) In this section a reference to a plea of guilty shall include a reference to a plea of guilty to only part of the charge, but where a plea of guilty to only part of a charge is not accepted by the prosecutor it shall be deemed to be a plea of not guilty.
- (8) It shall not be competent for any person appearing to answer a complaint, or for counsel or a solicitor appearing for the accused in his absence, to plead want of due citation or informality therein or in the execution thereof.
- (9) In this section, a reference to the first calling of a case includes a reference to any adjourned diet fixed by virtue of section 145 of this Act.