



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART IX

#### SUMMARY PROCEEDINGS

##### *Failure of accused to appear*

#### **150 Failure of accused to appear.**

- (1) This section applies where the accused in a summary prosecution fails to appear at any diet of which he has received intimation, or to which he has been cited other than a diet which, by virtue of section 148(5) of this Act, he is not required to attend.
- (2) The court may adjourn the proceedings to another diet, and order the accused to attend at such diet, and appoint intimation of the diet to be made to him.
- (3) The court may grant warrant to apprehend the accused.

[<sup>F1</sup>(3A) The grant, under subsection (3) above, at an intermediate diet [<sup>F2</sup>or a diet under section 148A of this Act] of a warrant to apprehend the accused has the effect of discharging the trial diet as respects that accused.

(3B) Subsection (3A) above is subject to any order to different effect made by the court when granting the warrant.]

[<sup>F3</sup>(3C) An order under subsection (3B) above—

- (a) for the purpose of having a trial in absence of the accused under section 150A of this Act, may be made on the motion of the prosecutor;
- (b) for any other purpose, may be made on the motion of the prosecutor or of the court's own accord.]

- (4) Intimation under subsection (2) above shall be sufficiently given by an officer of law, or by letter signed by the clerk of court or prosecutor and sent to the accused at his last known address by registered post or by the recorded delivery service, and the production in court of the written execution of such officer or of an acknowledgement

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or certificate of the delivery of the letter issued by the [<sup>F4</sup>postal operator] shall be sufficient evidence of such intimation having been duly given.

(5) <sup>F5</sup> .....

(6) <sup>F5</sup> .....

(7) <sup>F5</sup> .....

(8) An accused who without reasonable excuse fails to attend any diet of which he has been given due notice, shall be guilty of an offence and liable on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale; and

(b) to a period of imprisonment not exceeding—

(i) in the [<sup>F6</sup>JP court] , 60 days; or

(ii) in the sheriff court, [<sup>F7</sup>12] months.

(9) [<sup>F8</sup>A penalty under subsection (8) above shall] be imposed in addition to any other penalty which it is competent for the court to impose, notwithstanding that the total of penalties imposed may exceed the maximum penalty which it is competent to impose in respect of the original offence.

[<sup>F9</sup>(9A) The reference in subsection (9) above to a penalty being imposed in addition to another penalty means, in the case of sentences of imprisonment or detention—

(a) where the sentences are imposed at the same time (whether or not in relation to the same complaint), framing the sentences so that they have effect consecutively;

(b) where the sentences are imposed at different times, framing the sentence imposed later so that (if the earlier sentence has not been served) the later sentence has effect consecutive to the earlier sentence.

(9B) Subsection (9A)(b) above is subject to section 204A of this Act.

(9C) In any proceedings in relation to an offence under subsection (8) above, the fact that (as the case may be) an accused—

(a) failed to appear at a diet; or

(b) was given due notice of a diet,

shall, unless challenged by preliminary objection before his plea is recorded, be held as admitted.]

[<sup>F10</sup>(10) At any time before the trial in the prosecution in which the failure to appear occurred, it is competent to amend the complaint to include an additional charge of an offence under subsection (8).]

#### Textual Amendments

**F1** S. 150(3A)(3B) inserted (retrospectively) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2002 \(asp 4\), s. 1\(1\)\(2\)](#) (with s. 1(4))

**F2** Words in s. 150(3A) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\), s. 3, Sch. para. 12](#); S.S.I. 2002/443, [art. 3](#)

**F3** S. 150(3C) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\), ss. 14\(3\)\(a\), 84](#); S.S.I. 2007/479, [art. 3\(1\)](#), Sch. (as amended by S.S. I. 2007/527)

**F4** Words in s. 150(4) substituted (26.3.2001) by S.I. 2001/1149, [art. 3\(1\)](#), [Sch. 1 para. 104\(3\)](#) (subject to [art. 1\(3\)](#))

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- F5** S. 150(5)-(7) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 14(3)(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F6** Words in s. 150(8)(b)(i) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 80, 84, Sch. para. 26(g)**; S.S.I. 2008/42, **art. 3**, Sch.; S.S.I. 2008/192, **art. 3**, Sch.; S.S.I. 2008/329, **art. 3**, Sch.; S.S.I. 2008/362, **art. 3**, Sch.; S.S.I. 2009/432, **art. 3**, Schs. 1, 2
- F7** Word in s. 150(8)(b)(ii) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 15(a)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (subject to art. 6) (as amended by S.S. I. 2007/527)
- F8** Words in s. 150(9) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 15(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (subject to art. 6) (as amended by S.S. I. 2007/527)
- F9** S. 150(9A)-(9C) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 15(c)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (subject to art. 6) (as amended by S.S. I. 2007/527)
- F10** S. 150(10) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 62(2)**, 206(1); S.S.I. 2011/178, art. 2, sch.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)