



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART IX

SUMMARY PROCEEDINGS

Failure of accused to appear

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- (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.
- (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 or certificate of the delivery of the letter issued by the Post Office shall be sufficient evidence of such intimation having been duly given.
- (5) Where the accused is charged with a statutory offence for which a sentence of imprisonment cannot be imposed in the first instance, or where the statute founded on or conferring jurisdiction authorises procedure in the absence of the accused, the court, on the motion of the prosecutor and upon being satisfied that the accused has been duly cited, or has received due intimation of the diet where such intimation has been ordered, may subject to subsections (6) and (7) below, proceed to hear and dispose of the case in the absence of the accused.
- (6) Unless the statute founded on authorises conviction in default of appearance, proof of the complaint must be led to the satisfaction of the court.

Status: This is the original version (as it was originally enacted).

- (7) In a case to which subsection (5) above applies, the court may, if it considers it expedient, allow counsel or a solicitor who satisfies the court that he has authority from the accused so to do, to appear and plead for and defend him.
- (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 district court, 60 days; or
 - (ii) in the sheriff court, 3 months.
- (9) The penalties provided for in subsection (8) above may 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.
- (10) An accused may be dealt with for an offence under subsection (8) above either at his diet of trial for the original offence or at a separate trial.