



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *The indictment*

#### **70 Proceedings against bodies corporate.**

- (1) This section applies to proceedings on indictment against a body corporate.
- (2) The indictment may be served by delivery of a copy of the indictment together with notice to appear at the registered office or, if there is no registered office or the registered office is not in the United Kingdom, at the principal place of business in the United Kingdom of the body corporate.
- (3) Where a letter containing a copy of the indictment has been sent by registered post or by the recorded delivery service to the registered office or principal place of business of the body corporate, an acknowledgement or certificate of the delivery of the letter issued by the [<sup>F1</sup>postal operator] shall be sufficient evidence of the delivery of the letter at the registered office or place of business on the day specified in such acknowledgement or certificate.
- (4) A body corporate may, for the purpose of—
  - (a) stating objections to the competency or relevancy of the indictment or proceedings; or
  - (b) tendering a plea of guilty or not guilty; or
  - (c) making a statement in mitigation of sentence,appear by a representative of the body corporate.
- (5) Where at the trial diet the body corporate does not appear as mentioned in subsection (4) above, or by counsel or a solicitor, the court [<sup>F2</sup> may—
  - (a) on the motion of the prosecutor; and
  - (b) if satisfied as to the matters specified in subsection (5A) below,

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proceed with the trial] and dispose of the case in the absence of the body corporate.

[<sup>F3</sup>(5A) The matters referred to in subsection (5)(b) above are—

- (a) that the body corporate was cited in accordance with section 66 of this Act as read with subsection (2) above; and
- (b) that it is in the interests of justice to proceed as mentioned in subsection (5) above.]

(6) Where a body corporate is sentenced to a fine, the fine may be recovered in like manner in all respects as if a copy of the sentence certified by the clerk of the court were an extract decree of the Court of Session for the payment of the amount of the fine by the body corporate to the Queen’s and Lord Treasurer’s Remembrancer.

(7) Nothing in section 77 of this Act shall require a plea tendered by or on behalf of a body corporate to be signed.

(8) In this section, “representative”, in relation to a body corporate, means an officer or employee of the body corporate duly appointed by it for the purpose of the proceedings; and a statement in writing purporting to be signed by the managing director of, or by any person having or being one of the persons having the management of the affairs of the body corporate, to the effect that the person named in the statement has been appointed the representative of the body corporate for the purpose of any proceedings to which this section applies shall be sufficient evidence of such appointment [<sup>F4</sup>; and “officer” and “any person having or being one of the persons having the management of the affairs of the body corporate”, in relation to a limited liability partnership, means a member of the limited liability partnership].

#### Textual Amendments

- F1** Words in s. 70(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 104(2)** (subject to art. 1(3))
- F2** Words in s. 70(5) substituted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), **ss. 10(6)(a)**, 27(1); S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F3** S. 70(5A) inserted (1.2.2005) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), **ss. 10(6)(b)**, 27(1); S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F4** Words in s. 70(8) inserted (6.4.2001) by S.S.I. 2001/128, reg. 5, **Sch. 4 para. 1**

#### Modifications etc. (not altering text)

- C1** S. 70 extended (6.1.1997) by S.I. 1996/2827, **reg. 70(4)**
- C2** S. 70 applied (18.6.2001) by 2000 c. 8, **s. 403(4)(b)**; S.I. 2001/1820, art. 2, **Sch.**  
S. 70 applied (with modifications) (16.2.2001) by 2000 c. 41, **s. 153(4)**; S.I. 2001/222, art. 2, **Sch. 1 Pt. 1**  
S. 70 applied (31.5.2002) by Anti-terrorism, Crime and Security Act 2001 (c. 24), s. 69(4)(b); S.I. 2002/1279, **art. 2**  
S. 70 applied (1.4.2005) by Gangmasters (Licensing) Act 2004 (c. 11), ss. {21(4)(b)}, {22(6)(b)}, 29; S.I. 2005/447, **art. 1**
- C3** S. 70 applied (26.7.2007 for certain purposes and 26.7.2008 otherwise) by The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (S.I. 2007/1895), regs. 1, **6(4)**  
S. 70 applied (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), **reg. 47(8)(b)**  
S. 70 applied (15.12.2007) by The Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), **reg. 16(8)(b)**

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- S. 70 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 31(6)(b)(ii)**, 94; S.I. 2008/755, **art. 15(1)** (subject to paras. (2)(3))
- S. 70 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 32(5)(b)(ii)**, 94; S.I. 2008/755, **art. 15(1)** (subject to paras. (2)(3))
- C4** S. 70 applied (20.1.2007, 6.4.2007, 1.10.2007, otherwise prosp.) by Companies Act 2006 (c. 46), **ss. 1130(2)(b)(ii)**, 1300 (with savings in s. 1133); S.I. 2006/3428, **art. 3(2)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); S.I. 2007/1093, **art. 2(2)(c)** (with arts. 4, 11); S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with art. 12)
- C5** S. 70 applied (20.1.2007 for certain purposes and 6.4.2008 otherwise) by Companies Act 2006 (c. 46), **ss. 1257(5)**, 1300; S.I. 2006/3428, **art. 3(3)** (subject to arts. 5, 6, Sch. 1 (which Sch. 1 was revoked (1.10.2009) by S.I. 2008/2860, art. 6 subject to savings in Sch. 2)); S.I. 2007/3495, **art. 3(1)(u)** (with arts. 7, 12, Sch. 4 paras. 37-42)
- C6** S. 70 applied (5.2.2008) by The Transport Act 1968 (c. 73), s. 102B(4)(b) (as inserted by The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (S.I. 2008/198), **reg. 3**)

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