



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

The indictment

70 Proceedings against [^{F1}organisations].

(1) This section applies to proceedings on indictment against [^{F2}an organisation].

[^{F3}(2) The indictment may be served by delivery of a copy of the indictment together with notice to appear at—

- (a) in the case of a body of trustees—
 - (i) the dwelling-house or place of business of any of the trustees, or
 - (ii) if the solicitor of the body of trustees is known, the place of business of the solicitor,
- (b) in the case of any other organisation, 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 organisation.]

(3) Where a letter containing a copy of the indictment has been sent by registered post or by the recorded delivery service to [^{F4}any place], an acknowledgement or certificate of the delivery of the letter issued by the [^{F5}postal operator] shall be sufficient evidence of the delivery of the letter at [^{F6}that place] on the day specified in such acknowledgement or certificate.

(4) [^{F7}An organisation] 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 ^{F8}....

Status: Point in time view as at 30/06/2012. This version of this provision has been superseded.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 70 is up to date with all changes known to be in force on or before 19 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)

- (5) Where at the trial diet the [F⁹organisation] does not appear as mentioned in subsection (4) above, or by counsel or a solicitor, the court [F¹⁰ may—
- (a) on the motion of the prosecutor; and
 - (b) if satisfied as to the matters specified in subsection (5A) below,
- proceed with the trial] and dispose of the case in the absence of the [F⁹organisation].

[F¹¹(5A) The matters referred to in subsection (5)(b) above are—

- (a) that the [F¹²organisation] 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 [F¹³an organisation] 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 [F¹⁴the organisation] 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 [F¹⁵an organisation] to be signed.

[F¹⁶(8) In subsection (4) above, “representative” means—

- (a) in the case of a body corporate (other than a limited liability partnership), the managing director, secretary or other person in charge, or locally in charge, of its affairs;
- (b) in the case of a limited liability partnership, a member of the partnership;
- (ba) [F¹⁷in the case of a partnership (other than a limited liability partnership), a partner or other person in charge, or locally in charge, of the partnership’s affairs;
- (bb) in the case of an unincorporated association, the secretary or other person in charge, or locally in charge, of the association’s affairs;
- (c) in the case of any other organisation, an employee, officer or official of the organisation duly appointed by it for the purposes of the proceedings.]

(9) For the purposes of subsection (8)(c) above, a statement—

- (a) in the case of a body corporate (other than a limited liability partnership), purporting to be signed by an officer of the body;
- (b) in the case of a limited liability partnership, purporting to be signed by a member of the partnership,
- [F¹⁸(c) in the case of a partnership (other than a limited liability partnership), purporting to be signed by a partner;
- (d) in the case of an unincorporated association, purporting to be signed by an officer of the association;
- (e) in the case of a government department or a part of the Scottish Administration, purporting to be signed by a senior officer in the department or part,]

to the effect that the person named in the statement has been appointed as the representative for the purposes of any proceedings to which this section applies is sufficient evidence of such appointment.]

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Textual Amendments

- F1** Word in s. 70 title substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(1)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F2** Words in s. 70(1) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(3)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** S. 70(2) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(4)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F4** Words in s. 70(3) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(5)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F5** 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))
- F6** Words in s. 70(3) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(5)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F7** Words in s. 70(4) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(6)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 70(4) repealed (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(6)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F9** Word in s. 70(5) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(7)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F10** 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)
- F11** 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)
- F12** Word in s. 70(5A)(a) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(8)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F13** Words in s. 70(6) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(9)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F14** Words in s. 70(6) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(9)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F15** Words in s. 70(7) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(10)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F16** S. 70(8)(9) substituted (10.3.2008) for s. 70(8) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 28**, 84; S.S.I. 2008/42, **art. 3**, Sch.
- F17** S. 70(8)(ba)-(c) substituted for s. 70(8)(c) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(11)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F18** S. 70(9)(c)-(e) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 66(12)**, 206(1); S.S.I. 2011/178, art. 2, sch.

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)**

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- 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\(8\)\(b\)](#)
- 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, 6.4.2008, 1.10.2008 for certain purposes and 1.10.2009 otherwise) 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 Sch. 1 (which was revoked (1.10.2009) by S.I. 2008/2860, art. 6 subject to savings in Sch. 2)); S.I. 2007/1093, [art. 2\(2\)\(c\)](#) (subject to Sch. 1 (which was revoked (1.10.2009) by S.I. 2008/2860, art. 6 subject to savings in Sch. 2)); S.I. 2007/2194, [art. 2\(1\)\(1\)\(3\)\(h\)](#) (subject to art. 12, 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, arts. {3(3)(g)}, {5(3)(a)} (subject to arts. 7, 12, 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. 2008/2860, [art. 3\(s\)](#) (with arts. 5, 7, 8, Sch. 2 (as amended by S.I. 2009/1802, art. 18 and S.I. 2009/2476, reg. 2)).
- 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](#))
- C7** S. 70 applied (27.11.2008) by [Counter-Terrorism Act 2008 \(c. 28\)](#), ss. 62, 91, 100, [Sch. 7 para. 37\(2\)\(b\)](#) (with s. 101(2) and Sch. 7 para. 43)
- C8** S. 70 applied (9.3.2009) by [The Ozone-Depleting Substances \(Qualifications\) Regulations 2009 \(S.I. 2009/216\)](#), {reg. 10(4)}
- S. 70 applied (9.3.2009) by [The Ozone-Depleting Substances \(Qualifications\) Regulations 2009 \(S.I. 2009/216\)](#), {reg. 10(6)(ii)}
- C9** S. 70 applied (9.3.2009) by [The Fluorinated Greenhouse Gases Regulations 2009 \(S.I. 2009/261\)](#), regs. 1(1)(b)(4), [52\(4\)](#)
- S. 70 applied (9.3.2009) by [The Fluorinated Greenhouse Gases Regulations 2009 \(S.I. 2009/261\)](#), regs. 1(1)(b)(4), [52\(6\)\(b\)\(ii\)](#)
- C10** S. 70 applied (27.4.2009) by [The Organic Products Regulations 2009 \(S.I. 2009/842\)](#), [reg. 28\(4\)\(b\)](#)
- C11** S. 70 applied (1.1.2010) by [The Common Agricultural Policy Single Payment and Support Schemes \(Integrated Administration and Control System\) Regulations 2009 \(S.I. 2009/3263\)](#), [reg. 12\(2\)\(b\)\(ii\)](#)
- C12** S. 70 applied (1.5.2009 for certain purposes, otherwise 1.11.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), {regs. 1(2)(b)(xiii)(c), 118(4)(b)}
- C13** S. 70 applied (8.3.2010) by [The Mercury Export and Data \(Enforcement\) Regulations 2010 \(S.I. 2010/265\)](#), [reg. 7\(7\)\(b\)\(ii\)](#)
- C14** S. 70 applied (6.4.2010) by [The Detergents Regulations 2010 \(S.I. 2010/740\)](#), [reg. 24\(2\)\(b\)\(ii\)](#)
- C15** S. 70 applied (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), [ss. 38\(5\)\(b\)\(6\)](#), 55(1) (with s. 44)
- C16** S. 70 applied (1.7.2011) by [Bribery Act 2010 \(c. 23\)](#), [ss. 15\(2\)\(b\)\(iii\)](#), 19(1) (with ss. 16, 19(5)); S.I. 2011/1418, art. 2
- C17** S. 70 applied (with modifications) (30.12.2011) by [The Wine Regulations 2011 \(S.I. 2011/2936\)](#), regs. 1(2), [16\(2\)\(c\)](#) (with [reg. 3\(9\)](#))
- C18** S. 70 applied (30.6.2012) by [Pensions Act 2008 \(c. 30\)](#), [ss. 47\(2\)\(b\)\(ii\)](#), 149(1); S.I. 2012/1682, art. 2, Sch. 2

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