



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

Pre-trial proceedings

[^{F1}71B First diet: appointment of trial diet

- (1) At a first diet, unless a plea of guilty is tendered and accepted, the court must—
 - (a) after complying with section 71, and
 - (b) subject to subsections (3) to (7),appoint a trial diet.
- (2) Where a trial diet is appointed at a first diet, the accused must appear at the trial diet and answer the indictment.
- (3) In appointing a trial diet under subsection (1), in any case in which the [^{F2}period specified in section 65(1)(b)] applies (whether or not the [^{F3}period specified in section 65(4)(b)(ii)] also applies in the case)—
 - (a) if the court considers that the case would be likely to be ready to proceed to trial within that period, it must, subject to subsections (5) to (7), appoint a trial diet for a date within that period, or
 - (b) if the court considers that the case would not be likely to be so ready, it must give the prosecutor an opportunity to make an application to the court under section 65(3) for an extension of the [^{F2}period specified in section 65(1)(b)].
- (4) Where paragraph (b) of subsection (3) applies—
 - (a) if such an application as is mentioned in that paragraph is made and granted, the court must, subject to subsections (5) to (7), appoint a trial diet for a date within the [^{F4}period specified in section 65(1)(b)] as extended, or
 - (b) if no such application is made or if one is made but is refused by the court—

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- (i) the court may desert the first diet simpliciter or pro loco et tempore, and
 - (ii) where the accused is committed until liberated in due course of law, the accused must be liberated forthwith.
- (5) Subsection (6) applies in any case in which—
- (a) the [F⁵period specified in section 65(4)(b)(ii)] as well as the 12 month period applies, and
 - (b) the court is required, by virtue of subsection (3)(a) or (4)(a) to appoint a trial diet within the [F⁶period specified in section 65(1)(b)].
- (6) In such a case—
- (a) if the court considers that the case would be likely to be ready to proceed to trial within the [F⁷period specified in section 65(4)(b)(ii)], it must appoint a trial diet for a date within that period as well as within the [F⁸period specified in section 65(1)(b)], or
 - (b) if the court considers that the case would not be likely to be so ready, it must give the prosecutor an opportunity to make an application under section 65(5) for an extension of the 140 day period.
- (7) Where paragraph (b) of subsection (6) applies—
- (a) if such an application as is mentioned in that paragraph is made and granted, the court must appoint a trial diet for a date within the [F⁹period specified in section 65(4)(b)(ii)] as extended as well as within the [F¹⁰period specified in section 65(1)(b)],
 - (b) if no such application is made or if one is made but is refused by the court—
 - (i) the court must proceed under subsection (3)(a) or (as the case may be) (4)(a) to appoint a trial diet for a date within the 12 month period, and
 - (ii) the accused is then entitled to be admitted to bail.
- (8) Where an accused is, by virtue of subsection (7)(b)(ii), entitled to be admitted to bail, the court must, before admitting the accused to bail, give the prosecutor an opportunity to be heard.
- (9) On appointing a trial diet under this section in a case where the accused has been admitted to bail (otherwise than by virtue of subsection (7)(b)(ii)), the court, after giving the parties an opportunity to be heard—
- (a) must review the conditions imposed on the accused's bail, and
 - (b) having done so, may, if it considers it appropriate to do so, fix bail on different conditions.

[F¹¹(10) In this section a reference to the period specified in section 65(1)(b) or section 65(4)(b)(ii) is to be construed as including that period as extended.]]

Textual Amendments

- F1** S. 71B inserted (31.7.2017) after s. 71 by virtue of [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 81(4), 117(2)**; S.S.I. 2017/99, art. 4(1) (with arts. 4(2), 6)
- F2** Words in s. 71B(3) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 55(4)(a)(i), 59(1)**
- F3** Words in s. 71B(3) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 55(4)(a)(ii), 59(1)**

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Section 71B is up to date with all changes known to be in force on or before 15 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) View outstanding changes*

- F4** Words in s. 71B(4) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(b)**, 59(1)
- F5** Words in s. 71B(5) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(c)(i)**, 59(1)
- F6** Words in s. 71B(5) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(c)(ii)**, 59(1)
- F7** Words in s. 71B(6) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(d)(i)**, 59(1)
- F8** Words in s. 71B(6) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(d)(ii)**, 59(1)
- F9** Words in s. 71B(7) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(e)(i)**, 59(1)
- F10** Words in s. 71B(7) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(e)(ii)**, 59(1)
- F11** S. 71B(10) substituted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), **ss. 55(4)(f)**, 59(1)

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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.)