



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

Pre-trial proceedings

[^{F1}72C Procedure where preliminary hearing does not proceed

- (1) The prosecutor shall not raise a fresh libel in any case in which the court has deserted a preliminary hearing *simpliciter* unless the court's decision has been reversed on appeal.
- (2) Where a preliminary hearing is deserted *pro loco et tempore*, the court may appoint a further preliminary hearing for a later date and the accused shall appear and answer the indictment at that hearing.
- (3) Subsection (4) below applies where, at a preliminary hearing—
 - (a) the hearing has been deserted *pro loco et tempore* for any reason and no further preliminary hearing has been appointed under subsection (2) above; or
 - (b) the indictment is for any reason not proceeded with and the hearing has not been adjourned or postponed.
- (4) Where this subsection applies, the prosecutor may, at any time within the period of two months after the relevant date, give notice to the accused on another copy of the indictment to appear and answer the indictment—
 - (a) at a further preliminary hearing in the High Court not less than seven clear days after the date of service of the notice; or
 - (b) at—
 - (i) a first diet not less than 15 clear days after the service of the notice and not less than 10 clear days before the trial diet; and
 - (ii) a trial diet not less than 29 clear days after the service of the notice,

Status: Point in time view as at 11/07/2014. This version of this provision has been superseded.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 72C is up to date with all changes known to be in force on or before 08 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)

in the sheriff court where the charge is one that can lawfully be tried in that court.

- (5) Where notice is given to the accused under subsection (4)(b) above, then for the purposes of section 65(4) of this Act—
- (a) the giving of the notice shall be taken to be service of an indictment in respect of the sheriff court; and
 - (b) the previous service of the indictment in respect of the High Court shall be disregarded.
- (6) In subsection (4) above, “the relevant date” means—
- (a) where paragraph (a) of subsection (3) above applies, the date on which the diet was deserted as mentioned in that paragraph; or
 - (b) where paragraph (b) of that subsection applies, the date of the preliminary hearing referred to in that paragraph.
- (7) A notice referred to in subsection (4) above shall be in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form.]

Textual Amendments

- F1** Ss. 72-72D substituted for ss. 72-73A (1.2.2005, 1.4.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes, otherwise 1.4.2008) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), [ss. 1\(3\)](#), 27(1); [S.S.I. 2004/405](#), [art. 2](#), [Sch. 1](#) (subject to arts. 3-5); [S.S.I. 2005/168](#), [art. 2](#), [Sch.](#) (with [art. 4](#)); [S.S.I. 2006/59](#), [art. 2](#), [Sch.](#) (with [art. 4\(1\)](#)); [S.S.I. 2007/101](#), [art. 2](#), [Sch.](#) (with [art. 4](#)); [S.S.I. 2007/329](#), [art. 2](#), [Sch.](#) (with [art. 4](#)); [S.S.I. 2008/57](#), [art. 2](#) (with [art. 3](#))

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