



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Pre-trial proceedings*

#### **73 Preliminary diet: procedure**

- (1) Where a preliminary diet is ordered, subject to subsection (2) below, the accused shall attend it, and he shall be required at the conclusion of the diet to state how he pleads to the indictment.
- (2) The court may permit the diet to proceed notwithstanding the absence of an accused.
- (3) At a preliminary diet the court shall, in addition to disposing of any matter specified in a notice given under subsection (1) of section 72 of this Act or referred to in subsection (3) of that section, ascertain, so far as is reasonably practicable, whether the case is likely to proceed to trial on the date assigned as the trial diet and, in particular—
  - (a) the state of preparation of the prosecutor and of the accused with respect to their cases; and
  - (b) the extent to which the prosecutor and the accused have complied with the duty under section 257(1) of this Act.
- (4) At a preliminary diet the court may ask the prosecutor and the accused any question in connection with any matter specified in a notice under subsection (1) of the said section 72 or referred to in subsection (3) of that section or which it is required to ascertain under subsection (3) above.
- (5) Where at a preliminary diet the court concludes that the case is unlikely to proceed to trial on the date assigned for the trial diet, the court—
  - (a) shall, unless having regard to previous proceedings in the case it considers it inappropriate to do so, postpone the trial diet; and
  - (b) may fix a further preliminary diet.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Subject to subsection (5) above, the court may, if it considers it appropriate to do so, adjourn a preliminary diet.
- (7) Where an objection is taken to the relevancy of the indictment under subsection (1) (a)(i) of the said section 72, the clerk of court shall minute whether the objection is sustained or repelled and sign the minute.
- (8) In subsection (1) above, the reference to the accused shall, without prejudice to section 6(c) of the Interpretation Act 1978, in any case where there is more than one accused include a reference to all of them.