



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Alteration, etc, of diet*

#### **81 Procedure where trial does not take place**

- (1) Where at the trial diet—
  - (a) the diet has been deserted *pro loco et tempore* for any cause; or
  - (b) an indictment is for any cause not brought to trial and no order has been given by the court postponing such trial or appointing it to be held at a subsequent date at some other sitting of the court,it shall be lawful at any time within nine clear days after the last day of the sitting in which the trial diet was to be held to give notice to the accused on another copy of the indictment to appear to answer the indictment at a further diet either in the High Court or in the sheriff court when the charge is one that can be lawfully tried in that court, notwithstanding that the original citation to a trial diet was to a different court.
- (2) Without prejudice to subsection (1) above, where a trial diet has been deserted *pro loco et tempore* and the court has appointed a further trial diet to be held on a subsequent date at the same sitting the accused shall require to appear and answer the indictment at that further diet.
- (3) The prosecutor shall not raise a fresh libel in a case where the court has deserted the trial *simpliciter* and its decision in that regard has not been reversed on appeal.
- (4) The notice referred to in subsection (1) above shall be in the form prescribed by Act of Adjournal or as nearly as may be in such form.
- (5) The further diet specified in the notice referred to in subsection (1) above shall be not earlier than nine clear days from the giving of the notice.

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*Status: This is the original version (as it was originally enacted).*

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- (6) On or before the day on which notice referred to in subsection (1) above is given, a list of jurors shall be prepared, signed and kept by the sheriff clerk of the district to which the notice applies in the manner provided in section 85(1) and (2) of this Act.
- (7) The warrant issued under section 66(1) of this Act shall be sufficient warrant for the citation of accused and witnesses to the further diet.