

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 2 - Proceedings

Miscellaneous

Section 34: Participation of accused in identification procedures

New section 267B

198. **Section 34** inserts a new section 267B into the 1995 Act which provides that the court may make an order, on the application of the prosecutor, requiring the accused to attend at an identification parade or other identification procedure.
199. Subsections (1) and (2) provide that a court may, at any stage after the commencement of proceedings, on the application of the prosecutor, make an order requiring the accused person to participate in an identification parade or other procedure.
200. Subsection (3) provides that the court must allow the accused, where the accused is present, to make representations in respect of the application. It also gives the court a discretion (where it considers that it is appropriate to do so) to fix a hearing to allow the accused to make such representations if the accused is not present.
201. Subsection (4) provides that where the accused is not present, the clerk of court will notify the accused of any order made under subsection (1) . Subsection (5) outlines the manner in which that notice may be given.
202. Subsection (6) provides that a written execution signed by the clerk of court which is produced in court will be sufficient evidence of the fact that the clerk effected notice of the order on the accused.
203. Subsection (7) provides that where notice under subsection (4) is effected by registered post or recorded delivery the relevant post office receipt requires to be produced along with the execution of service.
204. Subsection (8) makes it an offence for a person, without reasonable excuse, to fail to comply with an order made under subsection (1). The offence is triable summarily only, regardless of whether the order which has allegedly been breached was imposed in respect of a summary or solemn case. A person will be liable on conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a period not exceeding 12 months, or to both.
205. Subsection (9) provides for references to section 141 of the 1995 act, in section 267B, to be read with such modifications as are necessary for its application in relation to that section.

*These notes relate to the Criminal Proceedings etc. (Reform) (Scotland)
Act 2007 (asp 6) which received Royal Assent on 22 February 2007*

206. Subsection (10) defines references to “the court” for the purposes of section 267B.