

Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

PART 2

PROCEEDINGS

Summary procedure

14 Proceedings in absence of accused

- (1) In section 141 (manner of citation) of the 1995 Act, in subsection (4), for the words “subsections (3) and (5) to (7) of section 150” there is substituted “ sections 143(7), 150(3) and 150A(1) ”.
- (2) In section 145A (adjournment at first calling to allow accused to appear etc.) of that Act, in subsection (1), for the words “150(1) to (7)” there is substituted “ 150 ”.
- (3) In section 150 (failure of accused to appear) of that Act—
 - (a) after subsection (3B) there is inserted—

“(3C) An order under subsection (3B) above—

 - (a) for the purpose of having a trial in absence of the accused under section 150A of this Act, may be made on the motion of the prosecutor;
 - (b) for any other purpose, may be made on the motion of the prosecutor or of the court's own accord.”,
 - (b) subsections (5) to (7) are repealed.
- (4) After section 150 of that Act there is inserted—

“150A Proceedings in absence of accused

- (1) Where the accused does not appear at a diet (apart from a diet fixed for the first calling of the case), the court—

Changes to legislation: There are currently no known outstanding effects for the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, Section 14. (See end of Document for details)

- (a) on the motion of the prosecutor or, in relation to sentencing, of its own accord; and
 - (b) if satisfied as to the matters specified in subsection (2) below, may proceed to hear and dispose of the case in the absence of the accused in like manner as if the accused were present.
- (2) The matters referred in subsection (1)(b) above are—
 - (a) that citation of the accused has been effected or the accused has received other intimation of the diet; and
 - (b) that it is in the interests of justice to proceed as mentioned in subsection (1) above.
- (3) In subsection (1) above, the reference to proceeding to hear and dispose of the case includes, in relation to a trial diet, proceeding with the trial.
- (4) Where the court is considering whether to proceed in pursuance of subsection (1) above, it shall—
 - (a) if satisfied that there is a solicitor with authority to act—
 - (i) for the purposes of representing the accused's interests at the hearing on whether to proceed that way; and
 - (ii) if it proceeds that way, for the purposes of representing the accused's further interests at the diet (including, in relation to a trial diet, presenting a defence at the trial), allow that solicitor to act for those purposes; or
 - (b) if there is no such solicitor, at its own hand appoint a solicitor to act for those purposes if it considers that it is in the interests of justice to do so.
- (5) It is the duty of a solicitor appointed under subsection (4)(b) above to act in the best interests of the accused.
- (6) In all other respects, a solicitor so appointed has, and may be made subject to, the same obligations and has, and may be given, the same authority as if engaged by the accused; and any employment of and instructions given to counsel by the solicitor shall proceed and be treated accordingly.
- (7) Where the court is satisfied that—
 - (a) a solicitor allowed to act under subsection (4)(a) above no longer has authority to act; or
 - (b) a solicitor appointed under subsection (4)(b) above is no longer able to act in the best interests of the accused,the court may relieve that solicitor and appoint another solicitor for the purposes referred to in subsection (4) above.
- (8) Subsections (4)(b) and (7) above do not apply in the case of proceedings—
 - (a) in respect of a sexual offence to which section 288C of this Act applies;
 - (b) in respect of which section 288E of this Act applies; or
 - (c) in which an order has been made under section 288F(2) of this Act.
- (9) Reference in this section to a solicitor appointed under subsection (4)(b) above includes reference to a solicitor appointed under subsection (7) above.

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- (10) Where the court proceeds in pursuance of subsection (1) above, it shall not in the absence of the accused pronounce a sentence of imprisonment or detention.
- (11) Nothing in this section prevents—
- (a) a warrant being granted at any stage of proceedings for the apprehension of the accused;
 - (b) a case subsequently being adjourned (in particular, with a view to having the accused present at any proceedings).”.
- (5) In section 153 (trial in presence of accused) of that Act, in subsection (1), for the words “Without prejudice to section 150 of this Act, and subject to” there is substituted “Subject to section 150A of this Act and ”.

Changes to legislation:

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