

# **CORONAVIRUS (RECOVERY AND REFORM) (SCOTLAND) ACT 2022**

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## **EXPLANATORY NOTES**

### **SCHEDULE: TEMPORARY MEASURES**

#### **Part 5: Criminal procedure time limits**

##### *Chapter 1: Extension of periods*

#### **Solemn proceedings: periods within which procedural hearings and trial must commence**

267. [Paragraph 20](#) makes provision to temporarily extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995 relating to criminal proceedings, making similar provision to the temporary modifications made by paragraph 10 of schedule 4 of the Coronavirus (Scotland) Act 2020 and paragraph 1 of schedule 2 of the Coronavirus (Scotland) (No.2) Act 2020.
268. Sub-paragraph (2) amends section 65 of the Criminal Procedure (Scotland) Act 1995, which applies certain time limits in respect of solemn trials, by increasing the time limit within which a preliminary hearing or a first diet must be commenced following the first appearance of an accused from 11 months to 17 months and the time limit within which the trial must commence following that first appearance from 12 months to 18 months.
269. If the preliminary hearing, or (as the case may be) first diet or trial are not commenced within the respective periods, the accused must be discharged from any indictment in respect of the offence and must not at any time be proceeded against on indictment in respect of that offence. The periods mentioned may still be extended under section 65(3) or on appeal under section 65(8) or under section 74(4)(c).

#### **Summary proceedings: period within which prosecution for statutory offence must commence**

270. [Paragraph 21](#) modifies section 136(1) of the Criminal Procedure (Scotland) Act 1995 to extend the time limit concerning summary proceedings specified in subsection (1) of that section by 6 months. It has the effect that the time limit for the commencement of proceedings for any statutory offence triable only summarily, unless the enactment fixes a different time limit, is 12 months from the date of the alleged commission of the offence.

#### **Pre-trial and pre-sentence remand period**

271. [Paragraph 22](#) modifies section 65 of the Criminal Procedure (Scotland) Act 1995 to extend each of the time limits specified in subsection (4) of that section by 180 days. It has the effect that an accused who is remanded in custody in connection with an offence in solemn proceedings must not be detained for a total period of more than—

*These notes relate to the Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8) which received Royal Assent on 10 August 2022*

- 260 days, unless within that period an indictment is served on the accused, failing which the accused will be entitled to bail, and
  - where an indictment has been served on the accused—
  - 290 days, unless a preliminary hearing (High Court cases), or a first diet (Sheriff Court cases) is commenced within that period, failing which the accused will be entitled to bail,
  - 320 days, unless the trial of the case is commenced within that period, failing which the accused will be entitled to bail.
272. The periods mentioned above may still be extended under section 65(5) or on appeal under section 65(8).
273. Sub-paragraph (3) modifies section 147 of the Criminal Procedure (Scotland) Act 1995 to extend the time limit concerning summary proceedings specified in subsection (1) of that section by 90 days. It has the effect that an accused who is remanded in custody charged in connection with an offence in summary proceedings must not be detained for a total period of more than 130 days after the bringing of the complaint in court unless the trial has commenced within that period, failing which the accused must be released and discharged for ever in connection with the offence. The period may still be extended under section 147(2), or on appeal under subsection (3) of that section.
274. Sub-paragraph (4) modifies section 200 of the Criminal Procedure (Scotland) Act 1995 which provides the court with a power to adjourn a case and remand the accused in custody where the accused has been found to have committed an offence punishable by imprisonment. This is to enable inquiry to be made into the accused's physical or mental condition. Sub-paragraph (4) removes the 3-week time limit for any single adjournment. The effect of this is that the court can adjourn the case for whatever period the court thinks necessary to enable a medical examination and report to be made.

## **Chapter 2: Adjournment periods**

### **Power of court to adjourn cases**

275. [Paragraph 23](#) makes a series of temporary modifications to the Criminal Procedure (Scotland) Act 1995 concerning the power of the court to adjourn cases.
276. Sub-paragraph (2) modifies section 145, which provides the court with a power to adjourn a summary case at first calling for inquiry into the case, or for any other cause it considers reasonable for such period as it considers appropriate. It removes subsection 145(3) which provides that, where the accused has been remanded on bail or ordained to appear, no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.
277. Sub-paragraph (3) modifies section 145A, which provides the court with a power to adjourn a case at first calling in a summary case where the accused is not present, to allow the accused to appear in answer to the complaint, or time for inquiry into the case, or for any other cause the court considers reasonable. It removes section 145A(3) which provides that no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.