
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 405

**The Criminal Procedure (Amendment)
(Scotland) Act 2004 (Commencement,
Transitional Provisions and Savings) Order 2004**

Transitional provision and savings

- 3.—(1) No preliminary hearing shall take place before 1st April 2005.
- (2) The provisions of the 2004 Act which come into force on 1st February 2005 shall apply for the purposes of a first diet, preliminary hearing or trial diet that commences after 31st March 2005.
- (3) The provisions of the 1995 Act shall continue to apply as if this Order had not been made where (and only where)—
- (a) the accused is cited on or before 1st March 2005 to a diet in the High Court or the sheriff court which commences before 1st April 2005; or
 - (b) the period mentioned in subsections (1) or (4) of section 65 of the 1995 Act as so continued (taking into account any extension under subsections (3), (5) or (7)) expires before 1st April 2005.
- (4) Sub paragraph (3) does not apply to the provisions of the 1995 Act that are repealed, substituted or amended by provisions of the 2004 Act that come into force on a day other than 1st February 2005.
- (5) The reference in sub paragraph (3)(a) to citation to a diet which commences before 1st April 2005 includes—
- (a) any further, adjourned, postponed or altered diet which commences before that date;
 - (b) re-indictment to any diet which commences before that date; and
 - (c) a first diet in the sheriff court which commences before that date and any subsequent trial diet in the sheriff court, provided the trial diet also commences before that date.
- (6) For the purposes of this article—
- (a) a diet other than a trial diet shall be taken to commence when it is called; and
 - (b) a trial diet shall be taken to commence when the jury is sworn.