



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART IX

#### SUMMARY PROCEEDINGS

##### *Citation*

#### 140 Citation.

- (1) This Act shall be a sufficient warrant for <sup>F1</sup>—
    - (a) <sup>F2</sup> .....
    - (b) the citation of the accused and witnesses in a summary prosecution to any ordinary sitting of the court or to any special diet fixed by the court or any adjournment thereof.
  - (2) <sup>F3</sup>Without prejudice to section 141(2A) of this Act,]such citation shall be in the form prescribed by Act of Adjournment or as nearly as may be in such form and shall, in the case of the accused, proceed on an induciae of at least 48 hours unless in the special circumstances of the case the court fixes a shorter induciae.
- <sup>F4</sup>(2A) Where the charge in the complaint in respect of which an accused is cited is of committing a sexual offence to which section 288C of this Act applies, the citation shall include or be accompanied by notice to the accused—
- (a) that, if he is tried for the offence, his defence <sup>F5</sup>and any proof ordered as is mentioned in section 288C(1) of this Act] may be conducted only by a lawyer;
  - (b) that it is, therefore, in his interests, if he has not already done so, to get the professional assistance of a solicitor; and
  - (c) that, if he does not engage a solicitor for the purposes of his defence at the trial, the court will do so.
- (2B) A failure to comply with subsection (2A) above does not affect the validity or lawfulness of any such citation or any other element of the proceedings against the accused.]

*Status: Point in time view as at 04/10/2004.*

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<sup>F6</sup>(3) .....

#### Textual Amendments

- F1** S. 140(1)(a) and “(b)” inserted (1.8.1997) by 1997 c. 48, s. 57(2)(a); S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)
- F2** S. 140(1)(a) repealed (4.10.2004) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), Sch. para. 33; S.S.I. 2004/405, art. 2, Sch. 1 (with savings in arts. 3-5)
- F3** Words in s. 140(2) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 61(2), 89; S.S.I. 2003/288, art. 2, Sch.
- F4** S. 140(2A)(2B) inserted (1.11.2002) by Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9), s. 3, Sch. para. 8; S.S.I. 2002/443, art. 3
- F5** Words in s. 140(2A)(a) added (25.11.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 85, 89, Sch. 4 para. 3(2); S.S.I. 2003/475, art. 2, Sch.
- F6** S. 140(3) repealed (1.8.1997) by 1997 c. 48, ss. 57(2)(b), 62(2), Sch. 3; S.I. 1997/1712, art. 3, Sch. (subject to arts. 4, 5)

#### 141 Manner of citation.

- (1) The citation of the accused and witnesses in a summary prosecution to any ordinary sitting of the court or to any special diet fixed by the court or to any adjourned sitting or diet shall be effected by delivering the citation to him personally or leaving it for him at his dwelling-house or place of business with a resident or, as the case may be, employee at that place or, where he has no known dwelling-house or place of business, at any other place in which he may be resident at the time.
- (2) Notwithstanding subsection (1) above, citation may also be effected—
- where the accused or witness is the master of, or a seaman or person employed in a vessel, if the citation is left with a person on board the vessel and connected with it;
  - where the accused is a partnership, association or body corporate—
    - if the citation is left at its ordinary place of business with a partner, director, secretary or other official; or
    - if it is cited in the same manner as if the proceedings were in a civil court; or
  - where the accused is a body of trustees, if the citation is left with any one of them who is resident in Scotland or with their known solicitor in Scotland.

[<sup>F7</sup>; and in sub-paragraph (b)(i) of this subsection references to the director or secretary or other official, in relation to a limited liability partnership, are to any member of the limited liability partnership]

- [<sup>F8</sup>(2A) Notwithstanding subsection (1) above and section 140(2) of this Act, citation of the accused may also be effected by an officer of law affixing to the door of the accused’s dwelling-house or place of business a notice in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form—
- specifying the date on which it was so affixed;
  - informing the accused that he may collect a copy of the complaint from a police station specified in the notice; and
  - calling upon him to appear and answer the complaint at such diet as shall be so specified.

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- (2B) Where the citation of the accused is effected by notice under subsection (2A) above, the induciae shall be reckoned from the date specified by virtue of paragraph (a) of that subsection.]
- (3) Subject to subsection (4) below [<sup>F9</sup>and without prejudice to the effect of any other manner of citation] , the citation of the accused or a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall be effective if it is <sup>F10</sup> . . . —
- (a) in the case of the accused, [<sup>F11</sup>signed by the prosecutor and]sent by post in a registered envelope or through the recorded delivery service; and
- (b) in the case of a witness, sent [<sup>F11</sup>by or on behalf of the prosecutor]by ordinary post,
- to the dwelling-house or place of business of the accused or witness or, if he has no known dwelling-house or place of business, to any other place in which he may be resident at the time.
- (4) Where the accused fails to appear at a diet or sitting or adjourned diet or sitting to which he has been cited in the manner provided by this section, subsections (3) and (5) to (7) of section 150 of this Act shall not apply unless it is proved to the court that he received the citation or that its contents came to his knowledge.
- (5) The production in court of any letter or other communication purporting to be written by or on behalf of an accused who has been cited as mentioned in subsection [<sup>F12</sup>(2A) or] (3) above in such terms as to infer that the contents of such citation came to his knowledge, shall be admissible as evidence of that fact for the purposes of subsection (4) above.
- [<sup>F13</sup>(5A) The citation of a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall be effective if it is sent by the accused’s solicitor by ordinary post to the dwelling house or place of business of the witness or, if he has no known dwelling house or place of business, to any other place in which he may be resident at the time.]
- (6) When the citation of any person is effected by post in terms of this section or any other provision of this Act to which this section is applied, the induciae shall be reckoned from 24 hours after the time of posting.
- (7) It shall be sufficient evidence that
- [<sup>F14</sup>(a)] a citation has been sent by post in terms of this section or any other provision of this Act mentioned in subsection (6) above, if there is produced in court a written execution, signed by the person who signed the citation in the form prescribed by Act of Adjournal, or as nearly as may be in such form, together with the post office receipt for the relative registered or recorded delivery letter[<sup>F15</sup>; or]
- [<sup>F16</sup>(b)] citation has been effected by notice under subsection (2A) above, if there is produced in court a written execution, in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form, signed by the officer of law who affixed the notice.]

#### Textual Amendments

**F7** Words in s. 141(2) inserted (6.4.2001) by S.S.I. 2001/128, reg. 5, Sch. 4 para. 2

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- F8** S. 141(2A)(2B) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(a)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F9** Words in s. 141(3) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(b)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F10** Words in s. 141(3) repealed (1.8.1997) by 1997 c. 48, s. 62(1)(2), Sch. 1 para. 21(19)(a)(i), **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F11** Words in s. 141(3)(a)(b) inserted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(19)(a)(ii)(iii)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F12** Words in s. 141(5) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(c)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F13** S. 141(5A) inserted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(19)(b)**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F14** Words in s. 141(7) renumbered as s. 141(7)(a) (27.6.2003) by virtue of Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(i)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F15** Word in s. 141(7) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(ii)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F16** S. 141(7)(b) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(ii)**, 89; S.S.I. 2003/288, **art. 2**, Sch.

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