



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART IX **S**

#### SUMMARY PROCEEDINGS

##### *First diet*

#### 146 Plea of not guilty. **S**

- (1) This section applies where the accused in a summary prosecution—
    - (a) pleads not guilty to the charge; or
    - (b) pleads guilty to only part of the charge and the prosecutor does not accept the partial plea.
  - (2) The court may proceed to trial at once unless either party moves for an adjournment and the court considers it expedient to grant it.
  - (3) The court may adjourn the case for trial to as early a diet as is consistent with the just interest of both parties, and the prosecutor shall, if requested by the accused, furnish him with a copy of the complaint if he does not already have one.
- [<sup>F1</sup>(3ZA) Where a case is adjourned under subsection (3) above, the court shall intimate to the accused the trial diet assigned and any intermediate diet fixed.
- (3ZB) When intimating a diet under subsection (3ZA) above, the court shall inform the accused that, if he fails to appear at any diet in the proceedings in respect of the case, the court might hear and dispose of the case in his absence.]
- [<sup>F2</sup>(3A) Where, under subsection (3) above, the prosecutor furnishes an accused charged with a sexual offence to which section 288C of this Act applies with a copy of the complaint, it shall be accompanied by a notice to the accused—
  - (a) that, if he is tried for the offence, his defence [<sup>F3</sup>and any proof ordered as is mentioned in section 288C(1) of this Act] at his trial may be conducted only by a lawyer;

*Status: Point in time view as at 10/12/2007. This version of this provision has been superseded.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 146 is up to date with all changes known to be in force on or before 02 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.
- (3B) A failure to comply with subsection (3A) above does not affect the validity or lawfulness of any such copy complaint or any other element of the proceedings against the accused.]
- (4) Where the accused is brought before the court from custody the court shall inform the accused of his right to an adjournment of the case for not less than 48 hours and if he requests such adjournment before the prosecutor has commenced his proof, subject to subsection (5) below, the adjournment shall be granted.
  - (5) Where the court considers that it is necessary to secure the examination of witnesses who otherwise would not be available, the case may proceed to trial at once or on a shorter adjournment than 48 hours.
  - (6) Where the accused is in custody, he may be committed to prison or to legalised police cells or to any other place to which he may lawfully be committed pending trial—
    - (a) if he is neither granted bail nor ordained to appear; or
    - (b) if he is granted bail on a condition imposed under section 24(6) of this Act that a sum of money is deposited in court, until the accused or a cautioner on his behalf has so deposited that sum.
  - (7) The court may from time to time at any stage of the case on the motion of either party or *ex proprio motu* grant such adjournment as may be necessary for the proper conduct of the case, and where from any cause a diet has to be continued from day to day it shall not be necessary to intimate the continuation to the accused.
  - (8) It shall not be necessary for the prosecutor to establish a charge or part of a charge to which the accused pleads guilty.
  - (9) The court may, in any case where it considers it expedient, permit any witness for the defence to be examined prior to evidence for the prosecution having been led or concluded, but in any such case the accused shall be entitled to lead additional evidence after the case for the prosecution is closed.

#### Textual Amendments

- F1** S. 146(3ZA)(3ZB) added (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), ss. 10, 84; S.S.I. 2007/479, art. 3(1), Sch. (as amended by S.S. I. 2007/527)
- F2** S. 146(3A)(3B) inserted (1.11.2002) by Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9), s. 3, Sch. para. 10; S.S.I. 2002/443, art. 3
- F3** Words in s. 146(3A)(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.

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