



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XII

EVIDENCE

Additional evidence, etc.

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- (1) Subject to subsection (2) below, the judge may, on a motion of the prosecutor or the accused made—
 - (a) in proceedings on indictment, at any time before the commencement of the speeches to the jury;
 - (b) in summary proceedings, at any time before the prosecutor proceeds to address the judge on the evidence,permit him to lead additional evidence.
- (2) Permission shall only be granted under subsection (1) above where the judge—
 - (a) considers that the additional evidence is *prima facie* material; and
 - (b) accepts that at the commencement of the trial either—
 - (i) the additional evidence was not available and could not reasonably have been made available; or
 - (ii) the materiality of such additional evidence could not reasonably have been foreseen by the party.
- (3) The judge may permit the additional evidence to be led notwithstanding that—
 - (a) in proceedings on indictment, a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 67(5) and 78(4) of this Act has not been given; or
 - (b) in any case, a witness must be recalled.
- (4) The judge may, when granting a motion in terms of this section, adjourn or postpone the trial before permitting the additional evidence to be led.

Status: This is the original version (as it was originally enacted).

- (5) In this section “the commencement of the trial” means—
- (a) in proceedings on indictment, the time when the jury is sworn; and
 - (b) in summary proceedings, the time when the first witness for the prosecution is sworn.