



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VI

#### MENTAL DISORDER

##### *Examination of facts*

#### **56 Examination of facts: supplementary provisions.**

- (1) An examination of facts ordered under section 54(1)(b) of this Act may, where the order is made at the trial diet [<sup>F1</sup>or, in proceedings on indictment, at the first diet (in the case of proceedings in the sheriff court) or the preliminary hearing (in the case of proceedings in the High Court)] , be held immediately following the making of the order and, where it is so held, the citation of the accused and any witness to the trial diet [<sup>F2</sup>, first diet or, as the case may be, preliminary hearing] shall be a valid citation to the examination of facts.
- (2) <sup>F3</sup> .....
- (3) Where an accused person is not legally represented at an examination of facts the court shall appoint counsel or a solicitor to represent his interests.
- (4) The court may, on the motion of the prosecutor and after hearing the accused, order that the examination of facts shall proceed in relation to a particular charge, or particular charges, in the indictment or, as the case may be, complaint in priority to other such charges.
- (5) The court may, on the motion of the prosecutor and after hearing the accused, at any time desert the examination of facts *pro loco et tempore* as respects either the whole indictment or, as the case may be, complaint or any charge therein.
- (6) Where, and to the extent that, an examination of facts has, under subsection (5) above, been deserted *pro loco et tempore*—
  - (a) in the case of proceedings on indictment, the Lord Advocate may, at any time, raise and insist in a new indictment; or

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**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 56 is up to date with all changes known to be in force on or before 18 April 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) [View outstanding changes](#)

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- (b) in the case of summary proceedings, the prosecutor may at any time raise a fresh libel,  
notwithstanding any time limit which would otherwise apply in respect of prosecution of the alleged offence.
- (7) If, in a case where a court has made a finding under subsection (2) of section 55 of this Act, a person is subsequently charged, whether on indictment or on a complaint, with an offence arising out of the same act or omission as is referred to in subsection (1) of that section, any order made under section 57(2) of this Act shall, with effect from the commencement of the later proceedings, cease to have effect.
- (8) For the purposes of subsection (7) above, the later proceedings are commenced when the indictment or, as the case may be, the complaint is served.

#### Textual Amendments

- F1** Words in s. 56(1) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 14\(a\)\(i\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3-5)
- F2** Words in s. 56(1) inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 14\(a\)\(ii\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3-5)
- F3** S. 56(2) repealed (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), ss. 25, 27(1), [Sch. para. 14\(b\)](#); S.S.I. 2004/405, [art. 2](#), Sch. 1 (subject to arts. 3-5)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 56 is up to date with all changes known to be in force on or before 18 April 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)