



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

The indictment

65 Prevention of delay in trials

- (1) Subject to subsections (2) and (3) below, an accused shall not be tried on indictment for any offence unless the trial is commenced within a period of 12 months of the first appearance of the accused on petition in respect of the offence; and, failing such commencement within that period, the accused shall be discharged forthwith and thereafter he shall be for ever free from all question or process for that offence.
- (2) Nothing in subsection (1) above shall bar the trial of an accused for whose arrest a warrant has been granted for failure to appear at a diet in the case.
- (3) On an application made for the purpose, the sheriff or, where an indictment has been served on the accused in respect of the High Court, a single judge of that court, may on cause shown extend the said period of 12 months.
- (4) Subject to subsections (5) to (9) below, an accused who is committed for any offence until liberated in due course of law shall not be detained by virtue of that committal for a total period of more than—
 - (a) 80 days, unless within that period the indictment is served on him, which failing he shall be liberated forthwith; or
 - (b) 110 days, unless the trial of the case is commenced within that period, which failing he shall be liberated forthwith and thereafter he shall be for ever free from all question or process for that offence.
- (5) Subject to subsection (6) below, a single judge of the High Court, may, on an application made to him for the purpose, for any sufficient cause extend the period mentioned in subsection (4)(a) above.

Status: This is the original version (as it was originally enacted).

- (6) An application under subsection (5) above shall not be granted if the judge is satisfied that, but for some fault on the part of the prosecution, the indictment could have been served within the period of 80 days.
- (7) A single judge of the High Court may, on an application made to him for the purpose, extend the period mentioned in subsection (4)(b) above where he is satisfied that delay in the commencement of the trial is due to—
- (a) the illness of the accused or of a judge;
 - (b) the absence or illness of any necessary witness;
 - (c) any other sufficient cause which is not attributable to any fault on the part of the prosecutor.
- (8) The grant or refusal of any application to extend the periods mentioned in this section may be appealed against by note of appeal presented to the High Court; and that Court may affirm, reverse or amend the determination made on such application.
- (9) For the purposes of this section, a trial shall be taken to commence when the oath is administered to the jury.
- (10) In calculating the period of 12 months specified in subsections (1) and (3) above there shall be left out of account any period during which the accused is detained, other than while serving a sentence of imprisonment or detention, in any other part of the United Kingdom or in any of the Channel Islands or the Isle of Man in any prison or other institution or place mentioned in subsection (1) or (1A) of section 29 of the Criminal Justice Act 1961 (transfer of prisoners for certain judicial purposes).