



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

[^{F1}Obstructive witnesses

[^{F1}90D Review of orders under section 90B(1)(a) or (b)

- (1) Where a court has made an order under subsection (1)(a) of section 90B of this Act, the court may, on the application of the witness in respect of whom the order was made, ^{F2} . . . and after giving the parties and the witness an opportunity to be heard—
 - (a) recall the order; and
 - (b) make an order under subsection (1)(b) or (c) of that section in respect of the witness.

- (2) Where a court has made an order under subsection (1)(b) of section 90B of this Act, the court may, after giving the parties and the witness an opportunity to be heard—
 - (a) on the application of the witness in respect of whom the order was made ^{F3} . . . —
 - (i) review the conditions imposed under subsection (5) of that section at the time the order was made; and
 - (ii) make a new order under subsection (1)(b) of that section and impose different conditions under subsection (5) of that section;
 - (b) on the application of the party who made the application under section 90A(1) of this Act in respect of the witness, review the order and the conditions imposed under subsection (5) of [^{F4}section 90B] at the time the order was made, and
 - (i) recall the order and make an order under subsection (1)(a) of that section in respect of the witness; or
 - (ii) make a new order under subsection (1)(b) of that section and impose different conditions under subsection (5) of that section.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 90D is up to date with all changes known to be in force on or before 20 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

- (3) The court may not review an order by virtue of subsection [F⁵ (1) or (2) above unless—
- (a) in the case of an application by the witness, the circumstances of the witness have changed materially; or
 - (b) in that or [F⁶any other] case, the witness or] party making the application puts before the court material information which was not available to it when it made the order which is the subject of the application.
- (4) An application under this section by a witness—
- (a) where it relates to the first order made under section 90B(1)(a) or (b) of this Act in respect of the witness, shall not be made before the fifth day after that order is made;
 - (b) where it relates to any subsequent such order, shall not be made before the fifteenth day after the order is made.
- (5) On receipt of an application under subsection (2)(b) above the court shall—
- (a) intimate the application to the witness in respect of whom the order which is the subject of the application was made;
 - (b) fix a diet for hearing the application and cite the witness to attend the diet; and
 - (c) where it considers that the interests of justice so require, grant warrant to arrest the witness.
- (6) Nothing in this section shall affect any right of a person to appeal against an order under section 90B(1).]

Textual Amendments

- F1** Ss. 90A-90E inserted (1.2.2005 for specified purposes and otherwise prosp.) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004](#) (asp 5), **ss. 11, 27(1)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (with transitional provision in arts. 3-5)
- F2** Words in s. 90D(1) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), **ss. 27(3)(a), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F3** Words in s. 90D(2)(a) repealed (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), **ss. 27(3)(b), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F4** Words in s. 90D(2)(b) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), **ss. 80, 84, Sch. para. 15(2)**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F5** Words in s. 90D(3) substituted (10.12.2007) by virtue of [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6), **ss. 27(3)(c), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F6** Words in s. 90D(3)(b) substituted (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010](#) (asp 13) **ss. 203, 206(1)**, {Sch. 7 para. 49}; S.S.I. 2010/413, **art. 2**, Sch.

Changes to legislation:

Criminal Procedure (Scotland) Act 1995, Section 90D is up to date with all changes known to be in force on or before 20 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.

[View outstanding changes](#)

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.)