
STATUTORY INSTRUMENTS

1999 No. 78 (S.2)

**HIGH COURT OF JUSTICIARY, SCOTLAND
SHERIFF COURT, SCOTLAND**

**Act of Adjournal (Criminal
Procedure Rules) (Amendment) 1999**

Made - - - - *7th January 1999*
Coming into force - - *1st March 1999*

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by section 305 of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ and of all other powers enabling them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) 1999 and shall come into force on 1st March 1999.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

Amendment of Criminal Procedure Rules 1996

2. In Schedule 2 (criminal procedure rules) to the Act of Adjournal (Criminal Procedure Rules) 1996⁽²⁾ in Chapter 8 (the indictment), after rule 8.1 insert the following rules.

“Further provision as respects extension of twelve months period for commencement of trial on indictment

8.1A. Where all the parties join in an application to extend, by a specific length of time, the period mentioned in subsection (1) of section 65 of the Criminal Procedure (Scotland) Act 1995 (that is to say, the period of twelve months within which a trial is to be commenced) the court may proceed, under subsection (3) of that section, to hear the parties without the attendance of an accused who has signed a minute, lodged with the Clerk of Justiciary or as the case may be with the sheriff clerk, consenting to the extension applied for; but the court shall not, on so hearing the parties, grant an extension which exceeds the extension applied for.

(1) 1995 c. 46.
(2) S.I.1996/513.

Fresh indictment as alternative to serving notice fixing new trial diet

8.1B. Where the court, under section 80(3) of the Criminal Procedure (Scotland) Act 1995 (discharge of trial diet), has given leave to the prosecutor to serve a notice fixing a new trial diet, the prosecutor may if he thinks fit instead serve, under section 66 of that Act (service and lodging of indictment etc.), a further indictment containing the same, or amended, charges; but the list of witnesses and list of productions lodged under subsection (5) of the said section 66 with the record copy of the further indictment shall not include any witness, or as the case may be any production, not included in either—

- (a) the lists copies of which were so lodged with the record copy of the indictment which was not brought to trial; or
- (b) a written notice which was timeously given to the accused under section 67(5) of that Act (provision for examining any witness or putting in evidence any production not included in the lists lodged) before leave was given to the prosecutor as mentioned above.”.

Edinburgh,
7th January 1999

Rodger of Earlsferry
Lord President I.P.D.

EXPLANATORY NOTE

(This note is not part of the Order)

This Act of Adjournal amends the Criminal Procedure Rules by—

- (a) providing procedures applicable in relation to joint applications, and hearings on applications, to extend the period of twelve months within which a trial is to be commenced in solemn proceedings; and
- (b) expressly providing that a prosecutor who has been given leave to serve a notice fixing a new trial diet in such proceedings has the option of serving a fresh indictment and in relation to that fresh indictment of amending the charges if he so wishes (though a restriction is imposed as regards the new lists of witnesses and of productions).