



# Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

## PART 2

### PROCEEDINGS

#### *Miscellaneous*

#### **39 Refixing diets**

- (1) After section 75A (adjournment and alteration of diets) of the 1995 Act there is inserted—

##### **“75B Refixing diets**

- (1) This section applies where in any proceedings on indictment any diet has been fixed for a non-sitting day.
- (2) The court may at any time before the non-sitting day—
- (a) discharge the diet; and
  - (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.
- (3) That is, by acting—
- (a) of the court’s own accord; and
  - (b) without the need for a hearing for the purpose.
- (4) In the case of a trial diet—
- (a) the prosecutor;
  - (b) the accused,

shall be entitled to an adjournment of the new diet fixed if the court is satisfied that it is not practicable for that party to proceed with the case on that date.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The power of the court under subsection (1) above is not exercisable for the sole purpose of ensuring compliance with a time limit applying in the proceedings.
  - (6) In subsections (1) and (2) above, a “non-sitting day” is a day on which the court is under this Act not required to sit.
  - (7) In subsections (2) to (5) above, “the court” means—
    - (a) in the case of proceedings in the High Court, a single judge of that Court;
    - (b) in the case of proceedings in the sheriff court, that court.”.
- (2) After section 137 (alteration of diets) of that Act there is inserted—

**“137ZA Refixing diets**

- (1) This section applies where in a summary prosecution any diet has been fixed for a non-sitting day.
- (2) The court may at any time before the non-sitting day—
  - (a) discharge the diet; and
  - (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.
- (3) That is, by acting—
  - (a) of the court’s own accord; and
  - (b) without the need for a hearing for the purpose.
- (4) In the case of a trial diet—
  - (a) the prosecutor;
  - (b) the accused,shall be entitled to an adjournment of the new diet fixed if the court is satisfied that it is not practicable for that party to proceed with the case on that date.
- (5) The power of the court under subsection (1) above is not exercisable for the sole purpose of ensuring compliance with a time limit applying in the proceedings.
- (6) In subsections (1) and (2) above, a “non-sitting day” is a day on which the court is under this Act not required to sit.”.