

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 - Criminal Justice

Section 95 – Excusal from jury service

463. Some of those who may be listed for jury service may be entitled to excusal as of right. They fall into categories set out in the [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c.55\)](#) in Schedule 1, Part III. This section makes changes to the 1980 Act to ensure that people who are listed for jury service who wish to apply for excusal as of right do so within 7 days of receiving the first notice that they may have to serve, unless they are 71 or over or serving military personnel.
464. The first step in the citation process is that the sheriff principal may require any person in one of his sheriff court districts who appears to be qualified for jury service to confirm their personal details in writing (under section 3(2) of the Jurors (Scotland) Act 1825). At the same time they are notified that they may be called for jury service, and they are asked to advise of any holiday dates and confirm whether they are ineligible for or disqualified from service. The earliest opportunity to seek excusal as of right would be on receipt of this notice. Subsection (3) introduces a new section, section 1A, into the 1980 Act which requires someone who wishes to be excused from jury service as of right to apply for that excusal within 7 days of receiving this notice, unless they are over 71 or serving military personnel.
465. A new section 1A requires to be created as the 1980 Act applies both to civil and criminal juries, whereas this Act is concerned only with matters of criminal justice. Section 1A therefore refers to criminal proceedings only. Subsection (2) makes other amendments restricting the effect of section 1(2) and (3) of the 1980 Act, which sets out the circumstances where potential jurors can currently apply for excusal as of right, to civil proceedings only.
466. A requirement to apply for excusal as of right within 7 days of receipt of the revival notice could be operationally difficult and hard to apply for people in the forces, particularly where they are serving in remote places. The requirement is therefore disapplied for people who are listed in Group C of Part III of Schedule 1 of the 1980 Act, who are currently full-time serving members of the armed forces, the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service or any Voluntary Aid Detachment serving with the Royal Navy by the new section 1A(2) of the 1980 Act, which is inserted by subsection (3). Not only does the 7 day requirement not apply, but the individual concerned is also not required to apply for excusal personally: his or her commanding officer may do so where the officer considers it would be prejudicial to the efficiency of the force for that person to be absent from duty.

*These notes relate to the Criminal Justice and Licensing (Scotland)
Act 2010 (asp 13) which received Royal Assent on 6 August 2010*

467. Similarly it may not be fair or practicable to enforce a requirement to apply for excusal as of right within 7 days for those who have attained the age of 71. This requirement is therefore disapplied in the case of those in the relevant paragraph of Group F of Part III of Schedule 1 to the 1980 Act (see Section 96 below), who are those who have attained the age of 71. Instead persons in this category have not yet been formally cited they may apply for excusal by written notice to the sheriff principal at any time. Where they have been formally cited they may apply for excusal by written notice to the clerk of court at any time up to the date on which that person is first cited to attend, or by attending at court in compliance with the citation and applying for excusal at that point. In any of these cases such persons shall be entitled to excusal as of right.
468. Since most categories of individuals entitled to be excused as of right are being required to seek excusal within 7 days of receipt of the revisal notice, the change in subsection (4) applies the offence of falsely claiming to be excusable as of right from jury service, which is contained in section 3(1)(a) of the 1980 Act, to that earlier stage of the citation process.