



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XII

#### EVIDENCE

##### *Agreed evidence*

#### **256 Agreements and admissions as to evidence**

- (1) In any trial it shall not be necessary for the accused or for the prosecutor—
  - (a) to prove any fact which is admitted by the other; or
  - (b) to prove any document, the terms and application of which are not in dispute between them,and, without prejudice to paragraph 1 of Schedule 8 to this Act, copies of any documents may, by agreement of the parties, be accepted as equivalent to the originals.
- (2) For the purposes of subsection (1) above, any admission or agreement shall be made by lodging with the clerk of court a minute in that behalf signed—
  - (a) in the case of an admission, by the party making the admission or, if that party is the accused and he is legally represented, by his counsel or solicitor; and
  - (b) in the case of an agreement, by the prosecutor and the accused or, if he is legally represented, his counsel or solicitor.
- (3) Where a minute has been signed and lodged as aforesaid, any facts and documents admitted or agreed thereby shall be deemed to have been duly proved.

#### **257 Duty to seek agreement of evidence**

- (1) Subject to subsection (2) below, the prosecutor and the accused (or each of the accused if more than one) shall each identify any facts which are facts—
  - (a) which he would, apart from this section, be seeking to prove;
  - (b) which he considers unlikely to be disputed by the other party (or by any of the other parties); and

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*Status: This is the original version (as it was originally enacted).*

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- (c) in proof of which he does not wish to lead oral evidence, and shall, without prejudice to section 258 of this Act, take all reasonable steps to secure the agreement of the other party (or each of the other parties) to them; and the other party (or each of the other parties) shall take all reasonable steps to reach such agreement.
- (2) Subsection (1) above shall not apply in relation to proceedings as respects which the accused (or any of the accused if more than one) is not legally represented.
- (3) The duty under subsection (1) above applies—
  - (a) in relation to proceedings on indictment, from the date of service of the indictment until the swearing of the jury or, where intimation is given under section 76 of this Act, the date of that intimation; and
  - (b) in relation to summary proceedings, from the date on which the accused pleads not guilty until the swearing of the first witness or, where the accused tenders a plea of guilty at any time before the first witness is sworn, the date when he does so.

## **258 Uncontroversial evidence**

- (1) This section applies where, in any criminal proceedings, a party (in this section referred to as “the first party”) considers that facts which that party would otherwise be seeking to prove are unlikely to be disputed by the other parties to the proceedings.
- (2) Where this section applies, the first party may prepare and sign a statement—
  - (a) specifying the facts concerned; or
  - (b) referring to such facts as set out in a document annexed to the statement,and shall, not less than 14 days before the trial diet, serve a copy of the statement and any such document on every other party.
- (3) Unless any other party serves on the first party, not more than seven days after the date of service of the copy on him under subsection (2) above or by such later time as the court may in special circumstances allow, a notice that he challenges any fact specified or referred to in the statement, the facts so specified or referred to shall be deemed to have been conclusively proved.
- (4) Where a notice is served under subsection (3) above, the facts specified or referred to in the statement shall be deemed to have been conclusively proved only in so far as unchallenged in the notice.
- (5) Subsections (3) and (4) above shall not preclude a party from leading evidence of circumstances relevant to, or other evidence in explanation of, any fact specified or referred to in the statement.
- (6) Notwithstanding subsections (3) and (4) above, the court—
  - (a) may, on the application of any party, where it is satisfied that there are special circumstances; and
  - (b) shall, on the joint application of all the parties,direct that the presumptions in those subsections shall not apply in relation to such fact specified or referred to in the statement as is specified in the direction.

- (7) An application under subsection (6) above may be made at any time after the commencement of the trial and before the commencement of the prosecutor's address to the court on the evidence.
- (8) Where the court makes a direction under subsection (6) above it shall, unless all the parties otherwise agree, adjourn the trial and may, without prejudice to section 268 of this Act, permit any party to lead evidence as to any such fact as is specified in the direction, notwithstanding that a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 67(5) and 78(4) of this Act has not been given.
- (9) A copy of a statement or a notice required, under this section, to be served on any party shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served such copy or notice together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.