



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PROCEDURE PRIOR TO TRIAL

#### *Arrest, Judicial Examination, Custody, Bail, Etc.*

#### **20B Record to be made of proceedings at examination.**

(1) The prosecutor shall provide for *verbatim* record to be made by [<sup>F1</sup>means of shorthand notes or by mechanical means] of all questions to and answers and declarations by, the accused in examination, or further examination, under sections 20 and 20A of this Act.

[<sup>F2</sup>(1A) A shorthand writer shall—

- (a) sign the shorthand notes taken by him of the questions, answers and declarations mentioned in subsection (1) above and certify the notes as being complete and correct; and
- (b) retain the notes.

(1B) A person recording the questions, answers and declarations mentioned in subsection (1) above by mechanical means shall—

- (a) certify that the record is true and complete;
- (b) specify in the certificate the proceedings to which the record relates; and
- (c) retain the record.

(1C) The prosecutor shall require the person who made the record mentioned in subsection (1) above, or such other competent person as he may specify, to make a transcript of the record in legible form; and that person shall—

- (a) comply with the requirement;
- (b) certify the transcript as being a complete and correct transcript of the record purporting to have been made and certified, and in the case of shorthand notes signed, by the person who made the record; and
- (c) send the transcript to the prosecutor.]

[<sup>F3</sup>(2) A transcript certified under subsection (1C)(b) above shall, subject to subsection (4) below, be deemed for all purposes to be a complete and correct record of the questions, answers and declarations mentioned in subsection (1) above.]

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*Status: Point in time view as at 31/03/1996. This version of this provision has been superseded.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1975, Section 20B is up to date with all changes known to be in force on or before 27 June 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)*

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- (3) Subject to subsections (5) and (6) below, within 14 days of the date of examination or further examination, the prosecutor shall—
- (a) serve a copy of the transcript on the accused examined; and
  - (b) serve a further such copy on the solicitor (if any) for that accused.

- (4) Subject to subsections (5) and (6) below, where notwithstanding the certification mentioned in subsection (2) above the said accused or the prosecutor is of the opinion that a transcript served under paragraph (a) of subsection (3) above contains an error or is incomplete he may—

- (a) within 10 days of service under the said paragraph (a), serve notice of such opinion on the prosecutor or as the case may be the said accused; and
- (b) within 14 days of service under paragraph (a) of this subsection, apply to the sheriff for the error or incompleteness to be rectified;

and the sheriff shall within seven days of the application hear the prosecutor and the said accused in chambers and may authorise rectification:

Provided that where—

- (i) the person on whom notice is served under paragraph (a) of this subsection agrees with the opinion to which that notice relates the sheriff may dispense with such hearing;
- (ii) the said accused neither attends, nor secures that he is represented at, such hearing it shall, subject to paragraph (i) above, nevertheless proceed.

- (5) Where at the time of a further examination a trial diet is already fixed and the interval between the further examination and that diet is not sufficient to allow of the time limits specified in subsections (3) and (4) above, the sheriff shall (either or both)—
- (a) direct that those subsections shall apply in the case with such modifications as to time limits as he shall specify;
  - (b) postpone the trial diet:

Provided that postponement under paragraph (b) above alone shall only be competent where the sheriff considers that to proceed under paragraph (a) above alone, or paragraphs (a) and (b) above together, would not be practicable.

- (6) Any time limit mentioned in subsections (3) and (4) above (including any such time limit as modified by a direction under subsection (5) above) may be extended, in respect of the case, by the High Court.
- (7) In so far as it is reasonably practicable so to arrange, the sheriff who deals with any application made under subsection (4) above shall be the sheriff before whom the examination (or further examination) to which the application relates was conducted.
- (8) Any decision of the sheriff, as regards rectification under subsection (4) above, shall be final.
- (9) A copy of—
- (a) a transcript required by paragraph (a) of subsection (3) above to be served on an accused or by paragraph (b) of that subsection to be served on his solicitor; or
  - (b) a notice required by paragraph (a) of subsection (4) above to be served on an accused or on the prosecutor,

[<sup>F4</sup>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 transcript

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or notice, together with, where appropriate, [<sup>F5</sup>the relevant post office receipt] shall be sufficient evidence of service of such a copy.

#### Textual Amendments

- F1** Words in s. 20B substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(2)(a)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 4(1)(c)
- F2** S. 20B(1A)-(1C) inserted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(2)(b)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 4(1)(c)
- F3** S. 20B(2) substituted (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 1(2)(c)** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, **arts. 3(4)**, 4(1)(c)
- F4** Words in s. 20B(9) substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 13(a)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**
- F5** Words in s. 20B(9) substituted (31.3.1996 subject to transitional provisions and savings in the commencing S.I.) by 1995 c. 20, s. 117(1), **Sch. 6 Pt. I para. 13(b)**; S.I. 1996/517, arts. 3(2), 4-6, **Sch. 2**

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