



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART I

#### CRIMINAL COURTS

#### JURISDICTION AND POWERS

##### *The High Court*

#### **1 Judges in the High Court.**

- (1) The Lord President of the Court of Session shall be the Lord Justice General and shall perform his duties as the presiding judge of the High Court.
- (2) Every person who is appointed to the office of one of the Senators of the College of Justice in Scotland shall, by virtue of such appointment, be a Lord Commissioner of Justiciary in Scotland.
- (3) If any difference arises as to the rotation of judges in the High Court, it shall be determined by the Lord Justice General, whom failing by the Lord Justice Clerk.
- (4) Any Lord Commissioner of Justiciary may preside alone at the trial of an accused before the High Court.
- (5) Without prejudice to subsection (4) above, in any trial of difficulty or importance it shall be competent for two or more judges in the High Court to preside for the whole or any part of the trial.

#### **2 Fixing of High Court sittings.**

- (1) The High Court shall sit at such times and places as the Lord Justice General, whom failing the Lord Justice Clerk, may, after consultation with the Lord Advocate, determine.

*Status: Point in time view as at 19/03/2015.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: The High Court is up to date with all changes known to be in force on or before 06 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)*

- (2) Without prejudice to subsection (1) above, the High Court shall hold such additional sittings as the Lord Advocate may require.
- (3) Where an accused has been cited to <sup>[F1]</sup>, or otherwise required to attend, a diet to be held at any sitting of the High Court, the prosecutor may, at any time before the commencement of <sup>[F2]</sup>the diet or, in the case of a trial diet, the trial<sup>[F3]</sup>, apply to the Court to transfer the case to <sup>[F3]</sup>a diet to be held at a sitting of the Court in another place<sup>[F3]</sup>; and a single judge of the High Court may—
- (a) after giving the accused or his counsel an opportunity to be heard; or
  - (b) on the joint application of all parties,
- make an order for the transfer of the case.
- <sup>[F4]</sup>(3C) The judge may proceed under subsection (3) above on a joint application of the parties without hearing the parties and, accordingly, he may dispense with any hearing previously appointed for the purpose of considering the application.]
- (4) Where no <sup>[F5]</sup>diets have been appointed to be held at a sitting of the High Court or if it is no longer expedient that a sitting should take place, it shall not be necessary for the sitting to take place.
- (5) If <sup>[F6]</sup>in any case a diet remains appointed to be held at a sitting which does not take place in pursuance of subsection (4) above, subsection (3) above shall apply in relation to the transfer of any other such case to another sitting.
- <sup>[F7]</sup>(6) For the purposes of subsection (3) above—
- (a) a diet shall be taken to commence when it is called; and
  - (b) a trial shall be taken to commence when the oath is administered to the jury.]

#### Textual Amendments

- F1** Words in s. 2(3) substituted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(a)(i)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F2** Words in s. 2(3) substituted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(a)(ii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F3** Words in s. 2(3) substituted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(a)(iii)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F4** S. 2(3C) inserted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(b)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F5** Words in s. 2(4) substituted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(c)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F6** Words in s. 2(5) substituted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(d)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)
- F7** S. 2(6) inserted (1.2.2005) by *Criminal Procedure (Amendment) (Scotland) Act 2004* (asp 5), ss. 25, 27(1), **Sch. para. 2(e)**; S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5)

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