



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART IX

SUMMARY PROCEEDINGS

Citation

140 Citation.

- (1) This Act shall be a sufficient warrant for ^{F1}—
 - (a) ^{F2}
 - (b) the citation of the accused and witnesses in a summary prosecution to any ordinary sitting of the court or to any special diet fixed by the court or any adjournment thereof.
 - (2) ^{F3}Without prejudice to section 141(2A) of this Act,]such citation shall be in the form prescribed by Act of Adjournal or as nearly as may be in such form and shall, in the case of the accused, proceed on an induciae of at least 48 hours unless in the special circumstances of the case the court fixes a shorter induciae.
- ^{F4}(2A) Where the charge in the complaint in respect of which an accused is cited is of committing a sexual offence to which section 288C of this Act applies, the citation shall include or be accompanied by notice to the accused—
- (a) that, if he is tried for the offence, his defence ^{F5}(including at any commissioner proceedings)]^{F6}and any proof ordered as is mentioned in section 288C(1) of this Act] may be conducted only by a lawyer;
 - (b) that it is, therefore, in his interests, if he has not already done so, to get the professional assistance of a solicitor; and
 - (c) that, if he does not engage a solicitor for the purposes of his defence at the trial ^{F7}(or at any related commissioner proceedings)] , the court will do so.
- (2B) A failure to comply with subsection (2A) above does not affect the validity or lawfulness of any such citation or any other element of the proceedings against the accused.]

Status: Point in time view as at 10/12/2007.

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[^{F8}(2C) In subsection (2A) above, “commissioner proceedings” means proceedings before a commissioner appointed under section 271(1) or by virtue of section 272(1)(b) of this Act.]

^{F9}(3)

Textual Amendments

- F1** S. 140(1)(a) and “(b)” inserted (1.8.1997) by 1997 c. 48, s. 57(2)(a); S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)
- F2** S. 140(1)(a) repealed (4.10.2004) by Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), ss. 25, 27(1), **Sch. para. 33**; S.S.I. 2004/405, **art. 2**, **Sch. 1** (with savings in arts. 3-5)
- F3** Words in s. 140(2) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(2)**, 89; S.S.I. 2003/288, **art. 2**, **Sch.**
- F4** S. 140(2A)(2B) inserted (1.11.2002) by Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9), s. 3, **Sch. para. 8**; S.S.I. 2002/443, **art. 3**
- F5** Words in s. 140(2A)(a) inserted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 35(2)(a)(i)**, 84; S.S.I. 2007/250, **art. 3(a)**
- F6** Words in s. 140(2A)(a) added (25.11.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 85, 89, **Sch. 4 para. 3(2)**; S.S.I. 2003/475, **art. 2**, **Sch.**
- F7** Words in s. 140(2A)(c) inserted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 35(2)(a)(ii)**, 84; S.S.I. 2007/250, **art. 3(a)**
- F8** S. 140(2C) added (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 35(2)(b)**, 84; S.S.I. 2007/250, **art. 3(a)**
- F9** S. 140(3) repealed (1.8.1997) by 1997 c. 48, ss. 57(2)(b), 62(2), **Sch. 3**; S.I. 1997/1712, art. 3, **Sch.** (subject to arts. 4, 5)

141 Manner of citation.

[^{F10}(1) The citation of the accused or a witness in a summary prosecution to any ordinary sitting of the court or to any special diet fixed by the court or to any adjourned sitting or diet shall be effected by an officer of law or other person—

- (a) delivering the citation to him personally; or
- (b) leaving it for him—
 - (i) at his dwelling-house or place of business with a resident or (as the case may be) employee there; or
 - (ii) where he has no known dwelling-house or place of business, at any other place in which he may be resident at the time.]

(2) Notwithstanding subsection (1) above, citation may also be effected—

- (a) where the accused or witness is the master of, or a seaman or person employed in a vessel, if the citation is left with a person on board the vessel and connected with it;
- (b) where the accused is a partnership, association or body corporate—
 - (i) if the citation is left at its ordinary place of business with a partner, director, secretary or other official; or
 - (ii) if it is cited in the same manner as if the proceedings were in a civil court; or
- (c) where the accused is a body of trustees, if the citation is left with any one of them who is resident in Scotland or with their known solicitor in Scotland.

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[^{F11}; and in sub-paragraph (b)(i) of this subsection references to the director or secretary or other official, in relation to a limited liability partnership, are to any member of the limited liability partnership]

[^{F12}(2A) Notwithstanding subsection (1) above and section 140(2) of this Act, citation of the accused may also be effected by an officer of law affixing to the door of the accused's dwelling-house or place of business a notice in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form—

- (a) specifying the date on which it was so affixed;
- (b) informing the accused that he may collect a copy of the complaint from a police station specified in the notice; and
- (c) calling upon him to appear and answer the complaint at such diet as shall be so specified.

(2B) Where the citation of the accused is effected by notice under subsection (2A) above, the induciae shall be reckoned from the date specified by virtue of paragraph (a) of that subsection.]

(3) Subject to subsection (4) below [^{F13}and without prejudice to the effect of any other manner of citation] , the citation of the accused or a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall be effective if it is [^{F14} . . .—

- (a) in the case of the accused, [^{F15}signed by the prosecutor and]sent by post in a registered envelope or through the recorded delivery service [^{F16}or by ordinary post] ; and
- (b) in the case of a witness, sent [^{F15}by or on behalf of the prosecutor]by ordinary post,

to the dwelling-house or place of business of the accused or witness or, if he has no known dwelling-house or place of business, to any other place in which he may be resident at the time.

[^{F17}(3A) Subject to subsection (4) below and without prejudice to the effect of any other manner of citation, the citation of the accused or a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall also be effective if an electronic citation is sent—

- (a) by or on behalf of the prosecutor; and
- (b) by means of electronic communication,

to the home or business email address of the person.]

(4) Where the accused fails to appear at a diet or sitting or adjourned diet or sitting to which he has been cited in the manner provided by this section, [^{F18}sections 143(7), 150(3) and 150A(1)] of this Act shall not apply unless it is proved to the court that he received the citation or that its contents came to his knowledge.

(5) The production in court of any letter or other communication [^{F19}(including a legible version of an electronic communication)] purporting to be written by or on behalf of an accused who has been cited as mentioned in subsection [^{F20}(2A) or] (3) above in such terms as to infer that the contents of such citation came to his knowledge, shall be admissible as evidence of that fact for the purposes of subsection (4) above.

[^{F21}(5ZA) The production in court of a legible version of an electronic communication which—

- (a) bears to have come from an accused's email address; and

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(b) is in such terms as to infer that the contents of an electronic citation sent as mentioned in subsection (3A) above came to the accused's knowledge, shall (even if not purporting to be written by or on behalf of the accused) be admissible as evidence of those facts for the purposes of subsection (4) above.]

[^{F22}(5A) The citation of a witness to a sitting or diet or adjourned sitting or diet as mentioned in subsection (1) above shall be effective [^{F23} if—

- (a) it is sent by or on behalf of the accused's solicitor by ordinary post—
 - (i) to the dwelling-house or place of business of the witness; or
 - (ii) if he has no known dwelling-house or place of business, to any other place in which he may be resident at the time; or
- (b) an electronic citation is sent by or on behalf of the accused's solicitor by means of electronic communication to the home or business email address of the witness.]]

[^{F24}(5B) Where a witness fails to appear at a diet or sitting or adjourned diet or sitting to which he has been cited in the manner provided by this section, subsection (2) of section 156 of this Act shall not apply unless it is proved to the court that he received the citation or that its contents came to his knowledge.]

(6) When the citation of any person is effected by post in terms of this section or any other provision of this Act to which this section is applied, the *induciae* shall be reckoned from 24 hours after the time of posting.

[^{F25}(6A) When the citation of any person is effected by electronic citation under subsection (3A) above, the *induciae* shall be reckoned from the end of the day on which the citation was sent.]

(7) It shall be sufficient evidence that

- [^{F26}(a)] a citation has been sent by post in terms of this section or any other provision of this Act mentioned in subsection (6) above, if there is produced in court a written execution, signed by the person who signed the citation in the form prescribed by Act of Adjournal, or as nearly as may be in such form, together with the post office receipt for the relative registered or recorded delivery letter [^{F27}; or]
- [^{F28}(b)] citation has been effected by notice under subsection (2A) above, if there is produced in court a written execution, in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form, signed by the officer of law who affixed the notice.]

[^{F29}(7A) It shall be sufficient evidence that citation has been effected electronically under subsection (3A) or (5A)(b) above if there is produced in court a legible version of an electronic communication which—

- (a) is signed by electronic signature by the person who signed the citation;
- (b) includes the citation; and
- (c) bears to have been sent to the home or business email address of the person being cited.

(7B) In this section, an “electronic citation” is a citation in electronic form which—

- (a) is capable of being kept in legible form; and
- (b) is signed by electronic signature—
 - (i) in the case of citation of the accused, by the prosecutor;

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(ii) in the case of citation of a witness, by or on behalf of the prosecutor or the accused's solicitor.]

Textual Amendments

- F10** S. 141(1) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(a)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F11** Words in s. 141(2) inserted (6.4.2001) by S.S.I. 2001/128, reg. 5, **Sch. 4 para. 2**
- F12** S. 141(2A)(2B) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(a)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F13** Words in s. 141(3) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(b)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F14** Words in s. 141(3) repealed (1.8.1997) by 1997 c. 48, s. 62(1)(2), Sch. 1 para. 21(19)(a)(i), **Sch. 3**; S.I. 1997/1712, **art. 3**, **Sch.** (subject to arts. 4, 5)
- F15** Words in s. 141(3)(a)(b) inserted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(19)(a)(ii)(iii)**; S.I. 1997/1712, **art. 3**, **Sch.** (subject to arts. 4, 5)
- F16** Words in s. 141(3)(a) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F17** S. 141(3A) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(c)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F18** Words in s. 141(4) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 14(1)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F19** Words in s. 141(5) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(d)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F20** Words in s. 141(5) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(c)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F21** S. 141(5ZA) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(e)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F22** S. 141(5A) inserted (1.8.1997) by 1997 c. 48, s. 62(1), **Sch. 1 para. 21(19)(b)**; S.I. 1997/1712, **art. 3**, **Sch.** (subject to arts. 4, 5)
- F23** Words in s. 141(5A) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(f)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch.
- F24** S. 141(5B) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(g)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F25** S. 141(6A) inserted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(h)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F26** Words in s. 141(7) renumbered as s. 141(7)(a) (27.6.2003) by virtue of Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(i)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F27** Word in s. 141(7) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(ii)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F28** S. 141(7)(b) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 61(3)(d)(ii)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F29** S. 141(7A)(7B) added (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 8(i)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)

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