



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART IX

SUMMARY PROCEEDINGS

Companies

143 Prosecution of companies, etc.

- (1) Without prejudice to any other or wider powers conferred by statute, this section shall apply in relation to the prosecution by summary procedure of [^{F1}an organisation].
- (2) Proceedings may be taken against the [^{F2}organisation in its] corporate capacity, and in that event any penalty imposed shall be recovered by civil diligence in accordance with section 221 of this Act.
- (3) Proceedings may be taken against an individual representative of a partnership, association or body corporate as follows:—
 - (a) in the case of a partnership or firm, any one of the partners, or the manager or the person in charge or locally in charge of its affairs;
 - (b) in the case of an association or body corporate, the managing director or the secretary or other person in charge, or locally in charge, of its affairs,

may be dealt with as if he was the person offending, and the offence shall be deemed to be the offence of the partnership, association or body corporate [^{F3}; and in paragraph 3(b) of this subsection references to the managing director or the secretary, in relation to a limited liability partnership, are to any member of the limited liability partnership].

[^{F4}(4) [^{F5}An organisation] may, for the purpose of—

- (a) stating objections to the competency or relevancy of the complaint or proceedings;
 - (b) tendering a plea of guilty or not guilty;
 - (c) making a statement in mitigation of sentence,
- appear by a representative.

Status: Point in time view as at 01/01/2016.

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- (5) In subsection (4) above, “representative” means—
- (a) an individual representative as mentioned in subsection (3) above; or
 - (b) an employee ^{F6}, officer or official of the organisation] duly appointed by it for the purpose of the proceedings.
- (6) For the purposes of subsection (5)(b) above, a statement—
- (a) in the case of a body corporate (other than a limited liability partnership), purporting to be signed by an officer of the body;
 - (b) in the case of a limited liability partnership, purporting to be signed by a member of the partnership;
 - (c) in the case of a partnership (other than a limited liability partnership), purporting to be signed by a partner of the partnership;
 - (d) in the case of an association, purporting to be signed by an officer of the association,
 - ^{F7}(e) [in the case of a government department or part of the Scottish Administration, purporting to be signed by a senior officer in the department or part,]
- to the effect that the person named in the statement has been appointed as the representative for the purposes of any proceedings to which this section applies is sufficient evidence of such appointment.
- (7) Where at a diet (apart from a diet fixed for the first calling of the case) ^{F8}[an organisation] does not appear as mentioned in subsection (4) above, or by counsel or a solicitor, the court may—
- (a) on the motion of the prosecutor or, in relation to sentencing, of its own accord; and
 - (b) if satisfied as to the matters specified in subsection (8) below, proceed to hear and dispose of the case in the absence of the ^{F9}[organisation].
- (8) The matters referred to in subsection (7)(b) above are—
- (a) that citation has been effected or other intimation of the diet has been received; and
 - (b) that it is in the interests of justice to proceed as mentioned in subsection (7) above.
- (9) The reference in subsection (7) above to proceeding to hear and dispose of the case includes, in relation to a trial diet, proceeding with the trial.]

Textual Amendments

- F1** Words in s. 143(1) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 67\(2\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F2** Words in s. 143(2) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 67\(3\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F3** Words in s. 143(3) inserted (6.4.2001) by [S.S.I. 2001/128](#), reg. 5, [Sch. 4 para. 3](#)
- F4** S. 143(4)-(9) added (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 17](#), 84; S.S.I. 2008/42, [art. 3](#), Sch.
- F5** Words in s. 143(4) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 67\(4\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.
- F6** Words in s. 143(5)(b) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 67\(5\)](#), 206(1); S.S.I. 2011/178, art. 2, sch.

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- F7** S. 143(6)(e) inserted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 67(6)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F8** Words in s. 143(7) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 67(7)(a)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F9** Word in s. 143(7) substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 67(7)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.

Modifications etc. (not altering text)

- C1** S. 143 applied (31.5.2002) by Anti-terrorism, Crime and Security Act 2001 (c. 24), s. 69(4)(b); S.I. 2002/1279, **art. 2**
S. 143 applied (1.4.2005) by Gangmasters (Licensing) Act 2004 (c. 11), **ss. 21**, 29; S.I. 2005/447, **arts. 1, 2**
S. 143 applied (1.4.2005) by Gangmasters (Licensing) Act 2004 (c. 11), **ss. 22**, 29; S.I. 2005/447, **arts. 1, 2**
S. 143 applied (20.1.2007, 6.4.2007, 1.10.2007, 6.4.2008, 1.10.2008 for certain purposes and 1.10.2009 otherwise) by Companies Act 2006 (c. 46), **ss. 1130(2)(b)(ii)**, 1300 (with savings in s. 1133); S.I. 2006/3428, **art. 3(2)** (with art. 6); S.I. 2007/1093, **art. 2(2)(c)** (with arts. 4, 11); S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with art. 12); S.I. 2007/3495, arts. {3(3)(g)}, {5(3)(a)} (with arts. 7, 12); S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18, S.I. 2009/2476, reg. 2)
- C2** S. 143 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 31(6)(b)(ii)**, 94; S.I. 2008/755, **art. 15(1)** (subject to paras. (2)(3))
S. 143 applied (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 32(5)(b)(ii)**, 94; S.I. 2008/755, **art. 15(1)** (subject to paras. (2)(3))
- C3** S. 143 applied (1.1.2010) by The Common Agricultural Policy Single Payment and Support Schemes (Integrated Administration and Control System) Regulations 2009 (S.I. 2009/3263), **reg. 12(2)(b)(ii)**
- C4** S. 143 applied (6.4.2010) by The Detergents Regulations 2010 (S.I. 2010/740), **reg. 24(2)(b)(ii)**
- C5** S. 143 applied (with modifications) (30.12.2011) by The Wine Regulations 2011 (S.I. 2011/2936), regs. 1(2), **16(2)(c)** (with reg. 3(9))
- C6** S. 143 applied (1.2.2007 for W. for specified purposes, 2.4.2007 for W. for specified purposes, 1.7.2007 for E. for specified purposes, 22.4.2008 for E.W.S. for specified purposes, 13.12.2008 for W. for specified purposes, 1.8.2012 for N.I. for specified purposes) by Health Act 2006 (c. 28), **ss. 77(4)(b)**, 83(4)(a)(6)(b)(7); S.I. 2007/204, arts. 2(c), 3(c); S.I. 2007/1375, art. 2(b); S.I. 2008/1147, art. 3(b)(c); S.I. 2008/3171, art. 2(b); S.R. 2012/307, art. 2(b)
- C7** S. 143 applied (with modifications) (1.3.2014) by The Olive Oil (Marketing Standards) Regulations 2014 (S.I. 2014/195), regs. 1, **15(2)(c)**
- C8** S. 143 applied (12.12.2014) by The Immigration Act 2014 (Bank Accounts) Regulations 2014 (S.I. 2014/3085), regs. 1, **23(4)(b)**
- C9** S. 143 applied (with modifications) (16.11.2015) by The Single Common Market Organisation (Emergency Aid for Milk Producers) Regulations 2015 (S.I. 2015/1896), regs. 1(2), **13(2)(c)**
- C10** S. 143 applied (1.1.2016) by The Small and Medium Sized Business (Finance Platforms) Regulations 2015 (S.I. 2015/1946), regs. 1(2), **35(4)(b)**
- C11** S. 143 applied (1.1.2016) by The Small and Medium Sized Business (Credit Information) Regulations 2015 (S.I. 2015/1945), regs. 1(2), **38(4)(b)**

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