



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII **S**

#### SOLEMN PROCEEDINGS

#### *[<sup>F1</sup> Adjournment and alteration of diets*

#### Textual Amendments

- F1** S. 75A and crossheading inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), **ss. 15, 27(1)**; [S.S.I. 2004/405](#), **art. 2**, Sch. 1 (subject to arts. 3-5)

#### **S** **75A** **Adjournment and alteration of diets**

- (1) This section applies where any diet has been fixed in any proceedings on indictment.
- (2) The court may, if it considers it appropriate to do so, adjourn the diet.
- (3) However—
  - (a) in the case of a trial diet, the court may adjourn the diet under subsection (2) above only if the indictment is not brought to trial at the diet;
  - (b) if the court adjourns any diet under that subsection by reason only that, following enquiries for the purpose of ascertaining whether the accused has engaged a solicitor for the purposes of the conduct of his defence at or for the purposes of a preliminary hearing or at a trial, it appears to the court that he has not done so, the adjournment shall be for a period of not more than 48 hours.
- (4) A trial diet in the High Court may be adjourned under subsection (2) above to a diet to be held at a sitting of the Court in another place.
- (5) The court may, on the application of any party to the proceedings made at any time before commencement of any diet—
  - (a) discharge the diet; and

*Status: Point in time view as at 01/10/2022.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Adjournment and alteration of diets is up to date with all changes known to be in force on or before 06 October 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)*

- (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.
- (6) Before determining an application under subsection (5) above, the court shall give the parties an opportunity to be heard.
- (7) However, where all the parties join in an application under that subsection, the court may determine the application without hearing the parties and, accordingly, may dispense with any hearing previously appointed for the purpose of subsection (6) above.
- (8) Where there is a hearing for the purpose of subsection (6) above, the accused shall attend it unless the court permits the hearing to proceed notwithstanding the absence of the accused.
- (9) In appointing a new trial diet under subsection (5)(b) above, the court—
  - (a) shall have regard to the state of preparation of the prosecutor and the accused with respect to their cases and, in particular, to the likelihood of the case being ready to proceed to trial on the date to be appointed for the trial diet; and
  - (b) may, if it appears to the court that there are any preliminary pleas, preliminary issues or other matters which require to be, or could with advantage be, disposed of or ascertained before the trial, appoint a diet to be held before the trial diet for the purpose of disposing of or, as the case may be, ascertaining them.
- (10) A date for a new diet may be fixed under subsection (5)(b) above notwithstanding that the holding of the diet on that date would result in any provision of this Act as to the minimum or maximum period within which the diet is to be held or to commence not being complied with.
- (11) In subsections (5) to (9) above, “the court” means—
  - (a) in the case of proceedings in the High Court, a single judge of that Court; and
  - (b) in the case of proceedings in the sheriff court, that court.
- (12) For the purposes of subsection (5) above—
  - (a) a diet other than a trial diet shall be taken to commence when it is called; and
  - (b) a trial diet shall be taken to commence when the jury is sworn.]]

#### Textual Amendments

**F2** S. 75A and crossheading inserted (1.2.2005) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\), ss. 15, 27\(1\)](#); [S.S.I. 2004/405, art. 2, Sch. 1](#) (subject to arts. 3-5)

#### [<sup>F3</sup>75B [<sup>F4</sup>Refixing diets: non-sitting days] **S**

- (1) This section applies where in any proceedings on indictment any diet has been fixed for a non-sitting day.
- (2) The court may at any time before the non-sitting day—
  - (a) discharge the diet; and
  - (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.

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- (3) That is, by acting—
  - (a) of the court's own accord; and
  - (b) without the need for a hearing for the purpose.
- (4) In the case of a trial diet—
  - (a) the prosecutor;
  - (b) the accused,shall be entitled to an adjournment of the new diet fixed if the court is satisfied that it is not practicable for that party to proceed with the case on that date.
- (5) The power of the court under subsection (1) above is not exercisable for the sole purpose of ensuring compliance with a time limit applying in the proceedings.
- (6) In subsections (1) and (2) above, a “non-sitting day” is a day on which the court is under this Act not required to sit.
- (7) In subsections (2) to (5) above, “the court” means—
  - (a) in the case of proceedings in the High Court, a single judge of that Court;
  - (b) in the case of proceedings in the sheriff court, that court.]

#### Textual Amendments

- F3** S. 75B inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. [39\(1\)](#), [84](#); [S.S.I. 2007/479](#), [art. 3\(1\)](#), [Sch.](#) (as amended by [S.S.I. 2007/527](#))
- F4** S. 75B heading substituted (30.1.2012) by [Act of Adjournal \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Refixing diets\) 2011 \(S.S.I. 2011/430\)](#), ss. [1\(2\)](#), [2\(3\)](#)

#### [<sup>F5</sup>75C Refixing diets: non-suitable days **S**

- (1) Where in any proceedings on indictment any diet has been fixed for a day which is no longer suitable to the court, it may, of its own accord, at any time before that diet—
  - (a) discharge the diet; and
  - (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.

<sup>F6</sup>(2) .....

- (3) In [<sup>F7</sup>subsection (1)], “the court” means—
  - (a) in the case of proceedings in the High Court, a single judge of that Court;
  - (b) in the case of proceedings in the sheriff court, that court.]

#### Textual Amendments

- F5** S. 75C inserted (30.1.2012) by [Act of Adjournal \(Amendment of the Criminal Procedure \(Scotland\) Act 1995\) \(Refixing diets\) 2011 \(S.S.I. 2011/430\)](#), ss. [1\(2\)](#), [2\(2\)](#)
- F6** S. 75C(2) repealed (25.3.2020) by [Act of Adjournal \(Criminal Procedure \(Scotland\) Act 1995 Amendment\) \(Miscellaneous\) 2020 \(S.S.I. 2020/93\)](#), paras. [1\(2\)](#), [2\(2\)\(a\)](#)
- F7** Words in s. 75C(3) substituted (25.3.2020) by [Act of Adjournal \(Criminal Procedure \(Scotland\) Act 1995 Amendment\) \(Miscellaneous\) 2020 \(S.S.I. 2020/93\)](#), paras. [1\(2\)](#), [2\(2\)\(b\)](#)

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