



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART VII

SOLEMN PROCEEDINGS

Jury for trial

88 Plea of not guilty, balloting and swearing of jury, etc.

- (1) Where the accused pleads not guilty, the clerk of court shall record that fact and proceed to ballot the jury.
- (2) The jurors for the trial shall be chosen in open court by ballot from the list of persons summoned in such manner as shall be prescribed by Act of Adjournal, and the persons so chosen shall be the jury to try the accused, and their names shall be recorded in the minutes of the proceedings.
- (3) It shall not be competent for the accused or the prosecutor to object to a juror on the ground that the juror has not been duly cited to attend.
- (4) Notwithstanding subsection (1) above, the jurors chosen for any particular trial may, when that trial is disposed of, without a new ballot serve on the trials of other accused, provided that—
 - (a) the accused and the prosecutor consent;
 - (b) the names of the jurors are contained in the list of jurors; and
 - (c) the jurors are duly sworn to serve on each successive trial.
- (5) When the jury has been balloted, the clerk of court shall inform the jury of the charge against the accused—
 - (a) by reading the words of the indictment (with the substitution of the third person for the second); or
 - (b) if the presiding judge, because of the length or complexity of the indictment, so directs, by reading to the jury a summary of the charge approved by the judge,

Status: Point in time view as at 31/10/2017.

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Section 88 is up to date with all changes known to be in force on or before 05 August 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)*

and copies of the indictment shall be provided for each member of the jury without lists of witnesses or productions.

- (6) After reading the charge as mentioned in subsection (5) above and any special defence as mentioned in section 89(1) of this Act, the clerk of court shall administer the oath in common form.
- (7) The court may excuse a juror from serving on a trial where the juror has stated the ground for being excused in open court.
- (8) Where a trial which is proceeding is adjourned from one day to another, the jury shall not be secluded during the adjournment, unless, on the motion of the prosecutor or the accused or *ex proprio motu* the court sees fit to order that the jury be kept secluded.

Modifications etc. (not altering text)

- C1** S. 88(1) excluded by S.I. 1996/513, Sch. 2 rule 14.1A(1) (as inserted (1.6.2010) by Act of Adjournal (Criminal Procedure Rules Amendment) (Miscellaneous) 2010 (S.S.I. 2010/184), para. 3)

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