



Criminal Procedure (Amendment) (Scotland) Act 2004

2004 asp 5

PART 2

SOLEMN PROCEEDINGS GENERALLY

15 Alteration of diets

After section 75 of the 1995 Act insert—

“Adjournment and alteration of diets

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—

Status: This is the original version (as it was originally enacted).

- (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.
- (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.”.