

CRIMINAL PROCEEDINGS ETC. (REFORM) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

INTRODUCTION

Part 2 - Proceedings

Summary procedure

Section 9: Procedure at first calling

71. This section gives prosecutors and courts additional flexibility in the conduct of hearings which are calling in court following the accused being cited to appear (sometimes referred to as “diet courts”).
72. **Section 9** amends section 144 of the 1995 Act and introduces new procedures in relation to the first calling of summary complaints. The clerk of court and prosecutor are given additional powers to allow the first calling to be dealt with, in certain circumstances, without the involvement of a judge.
73. Subsection (1)(b) inserts new subsections (3ZA) & (3ZB) into section 144 of the 1995 Act. It provides that, where written intimation is received from an accused and the prosecutor is not satisfied that the intimation was made or authorised by the accused (or that the terms of the plea are not clear) the case may be continued to another date. The clerk of court may authorise that continuation without the need for the sheriff, magistrate or justice to sit in court. Where the plea tendered is one of not guilty the clerk of court may fix a date for trial and, where appropriate, a date for an intermediate diet. Again, the clerk may exercise this function of the court without the need for the sheriff, magistrate or justice to sit in court.
74. Subsection (2) amends section 145A of the Act to allow the clerk of court to adjourn the case in the circumstances set out in section 145A(2) of the Act. The clerk may exercise this power without the need for the sheriff, magistrate or justice to sit in court.