

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Criminal Procedure

Sections 65-68 - Prosecution of organisations

305. [Sections 65 to 68](#) deal with procedural matters in relation to the prosecution of organisations.
306. Section 70 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) deals with proceedings on indictment against bodies corporate. It provides for how the indictment is served, appearance by a representative for certain purposes, and the recovery of fines. It does not make provision about partnerships or other unincorporated associations. In contrast, section 143 of the same Act, which deals with summary procedure, specifically provides for how proceedings may be brought against partnerships, associations, and bodies of trustees as well as bodies corporate.
307. [Sections 65 to 68](#) of this Act clarify and extend these procedural provisions by extending them to apply to “organisations”, as defined in the new definition inserted in the 1995 Act by section 65.
308. [Section 66](#) amends section 70 of the 1995 Act to provide for:
- how indictments may be served on different sorts of organisation;
 - how organisations may appear by a representative (defined in section 70(8) and (9)) for the purpose of stating objections to the competency or relevancy of the indictment or proceedings, tendering a plea of guilty or not guilty, making a statement in mitigation of sentence;
 - the trial to proceed and the case be disposed of where an organisation does not appear either by a representative or by counsel or solicitor; and
 - the recovery of fines.
309. [Section 67](#) similarly amends section 143 of the 1995 Act to provide for:
- summary proceedings to be taken against an organisation in its corporate capacity or against an individual representative of the organisation;
 - how organisations may appear by a representative for the purpose of stating objections to the competency or relevancy of the complaint or proceedings, tendering a plea of guilty or not guilty, making a statement in mitigation of sentence;
 - the case to proceed and the case be disposed of where an organisation does not appear either by a representative or by counsel or solicitor; and

*These notes relate to the Criminal Justice and Licensing (Scotland)
Act 2010 (asp 13) which received Royal Assent on 6 August 2010*

- recovery of fines.
310. [Section 68](#) amends section 141(2)(b) of the 1995 Act to provide that an organisation (other than a body of trustees) may be cited in summary proceedings if the citation is left at its ordinary place of business with a partner, director, secretary or other official or if it is cited in the same manner as if the proceedings were in a civil court. Section 141(2)(c) already deals with citation of bodies of trustees.