



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 3

#### SOLEMN PROCEDURE

#### **80 Duty of parties to communicate**

- (1) The 1995 Act is amended as follows.
- (2) In section 71 (first diet), after subsection (1) there is inserted—

“(1ZA) If a written record has been lodged in accordance with section 71C, the court must have regard to the written record when ascertaining the state of preparation of the parties.”.
- (3) Before section 72 there is inserted—

#### **“71C Written record of state of preparation: sheriff court**

- (1) Subsection (2) applies where—
  - (a) the accused is indicted to the sheriff court, and
  - (b) a solicitor—
    - (i) has notified the court under section 72F(1) that the solicitor has been engaged by the accused for the purposes of conducting the accused's defence, and
    - (ii) has not subsequently been dismissed by the accused or withdrawn.
- (2) The prosecutor and the accused's legal representative must, within the period described in subsection (3), communicate with each other and jointly prepare a written record of their state of preparation with respect to their cases (referred to in this section as “the written record”).
- (3) The period referred to in subsection (2) begins on the day the accused is served with an indictment and expires at the end of the day falling 14 days later.
- (4) The written record must—
  - (a) be in such form, or as nearly as may be in such form,

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2016, Section 80 is up to date with all changes known to be in force on or before 28 April 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) View outstanding changes*

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- (b) contain such information, and
  - (c) be lodged in such manner,as may be prescribed by act of adjournal.
- (5) The written record must state the manner in which the communication required by subsection (2) was conducted (for example, by telephone, email or a meeting in person).
- (6) In subsection (2), “the accused's legal representative” means—
  - (a) the solicitor referred to in subsection (1), or
  - (b) where the solicitor has instructed counsel for the purposes of the conduct of the accused's case, either the solicitor or that counsel, or both of them.
- (7) In subsection (6)(b), “counsel” includes a solicitor who has a right of audience in the High Court of Justiciary under section 25A of the Solicitors (Scotland) Act 1980.”.
- (4) In section 75 (computation of certain periods), after the words “67(3),” there is inserted “ 71C(3) ”.

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#### **Commencement Information**

**II** S. 80 in force at 29.5.2017 for specified purposes by S.S.I. 2017/99, **art. 3(1)(2)** (with **art. 6**)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)