



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART IX

#### SUMMARY PROCEEDINGS

##### *Pre-trial procedure*

#### 148 Intermediate diet.

- (1) [<sup>F1</sup>The court may, when adjourning a case for trial in terms of section 146(3) of this Act, and may also, at any time thereafter, whether before, on or after any date assigned as a trial diet], fix a diet (to be known as an intermediate diet) for the purpose of ascertaining, so far as is reasonably practicable, whether the case is likely to proceed to trial on [<sup>F1</sup>any date assigned as a trial diet] and, in particular—
- (a) the state of preparation of the prosecutor and of the accused with respect to their cases;
  - (b) whether the accused intends to adhere to the plea of not guilty; and
  - [<sup>F2</sup>(ba) how many witnesses are required by—
    - (i) the prosecutor;
    - (ii) the accused,to attend the trial;]
  - (c) the extent to which the prosecutor and the accused have complied with the duty under section 257(1) of this Act.
- [<sup>F3</sup>(1A) At an intermediate diet in summary proceedings in the sheriff court, the court shall also—
- (a) ascertain whether subsection (1B) below applies to any person who is to give evidence at or for the purposes of the trial or to the accused, and
  - (b) if so, consider whether it should make an order under section 271A(7) or 271D(2) of this Act in relation to person or, as the case may be, the accused.
- (1B) This subsection applies—

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 148 is up to date with all changes known to be in force on or before 14 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*

- (a) to a person who is to give evidence at or for the purposes of the trial if that person is, or is likely to be, a vulnerable witness,
  - (b) to the accused if, were he to give evidence at or for the purposes of the trial, he would be, or would be likely to be, a vulnerable witness.]
- (2) Where at an intermediate diet the court concludes that the case is unlikely to proceed to trial on the date assigned for the trial diet, the court—
- (a) [<sup>F4</sup>may] postpone the trial diet; and
  - (b) may fix a further intermediate diet.
- (3) [<sup>F5</sup>The] court may, if it considers it appropriate to do so, adjourn an intermediate diet.
- [<sup>F6</sup>(3AA) At an intermediate diet, the court shall also dispose of any application for a witness anonymity order under section 271P of this Act of which notice has been given in accordance with section 271Q(2)(a) of this Act.]
- [<sup>F7</sup>(3A) At an intermediate diet, the court may consider an application for the purposes of subsection (1) of section 275 of this Act; and, notwithstanding subsection (1) above, the court may fix a diet under that subsection for the purpose only of considering such an application.
- (3B) Subsection (3A) above shall not operate so as to relieve any court prescribed by order under subsection (7) below of its duty, which arises by virtue of the operation of that subsection, to fix an intermediate diet for the purpose mentioned in subsection (1) above.]
- [<sup>F8</sup>(4) At an intermediate diet, the court shall make such enquiry of the parties as is reasonably required for the purposes of subsections (1) and (3A) above.]
- (5) The accused shall attend an intermediate diet of which he has received intimation or to which he has been cited unless—
- (a) he is legally represented; and
  - [<sup>F9</sup>(b) the court considers that, on cause shown, he need not attend.]
- (6) A plea of guilty may be tendered at the intermediate diet.
- (7) The foregoing provisions of this section shall have effect as respects any court prescribed by the Secretary of State by order, in relation to proceedings commenced after such date as may be so prescribed, with the following modifications—
- (a) in subsection (1), for the word “may” [<sup>F10</sup>where it first appears,] there shall be substituted “shall, subject to subsection (1A) below,”; and
  - (b) after subsection (1) there shall be inserted the following subsections—
    - “(1A) If, on a joint application by the prosecutor and the accused made at any time before the commencement of the intermediate diet, the court considers it inappropriate to have such a diet, the duty under subsection (1) above shall not apply and the court shall discharge any such diet already fixed.
    - (1B) The court may consider an application under subsection (1A) above without hearing the parties.”.
- (8) An order under subsection (7) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### Textual Amendments

- F1** Words in s. 148(1) substituted (retrospective to 1.4.1996) by 1998 c. 10, s. **1(1)(a)(i)(ii)(2)**
- F2** S. 148(1)(ba) inserted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 18(a)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F3** S. 148(1A)(1B) inserted (1.4.2007 for certain purposes and otherwise 1.4.2008) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 2(5)(a)**, 25; S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F4** Words in s. 148(2)(a) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 18(b)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F5** Word in s. 148(3) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 18(c)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F6** S. 148(3AA) inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 90(2)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch.
- F7** S. 148(3A)(3B) inserted (1.11.2002) by [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002 \(asp 9\)](#), s. **8(5)(a)**; S.S.I. 2002/443, **art. 3** (with art. 4(5))
- F8** S. 148(4) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 18(d)**, 84; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S. I. 2007/527)
- F9** S. 148(5)(b) substituted (10.10.2014) by [Act of Adjournal \(Amendment of the Criminal Procedure \(Scotland\) Act 1995 and Criminal Procedure Rules 1996\) \(Miscellaneous\) 2014 \(S.S.I. 2014/242\)](#), **para. 2(2)**
- F10** Words in s. 148(7)(a) inserted (retrospective to 1.4.1996) by 1998 c. 10, s. **1(1)(b)(2)**

**Changes to legislation:**

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)