



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART X

APPEALS FROM SUMMARY PROCEEDINGS

General

174 Appeals relating to preliminary pleas

- (1) Without prejudice to any right of appeal under section 175(1) to (6) or 191 of this Act, a party may, with the leave of the court (granted either on the motion of the party or *ex proprio motu*) and in accordance with such procedure as may be prescribed by Act of Adjournal, appeal to the High Court against a decision of the court of first instance (other than a decision not to grant leave under this subsection) which relates to such objection or denial as is mentioned in section 144(4) of this Act; but such appeal must be taken not later than two days after such decision.
- (2) Where an appeal is taken under subsection (1) above, the High Court may postpone the trial diet (if one has been fixed) for such period as appears to it to be appropriate and may, if it thinks fit, direct that such period (or some part of it) shall not count towards any time limit applying in respect of the case.
- (3) If leave to appeal under subsection (1) above is granted by the court it shall not proceed to trial at once under subsection (2) of section 146 of this Act; and subsection (3) of that section shall be construed as requiring sufficient time to be allowed for the appeal to be taken.
- (4) In disposing of an appeal under subsection (1) above the High Court may affirm the decision of the court of first instance or may remit the case to it with such directions in the matter as it thinks fit; and where the court of first instance had dismissed the complaint, or any part of it, may reverse that decision and direct that the court of first instance fix a trial diet (if it has not already fixed one as regards so much of the complaint as it has not dismissed.)