



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART VII

#### SOLEMN PROCEEDINGS

##### *Pre-trial proceedings*

#### **[<sup>F1</sup>72C Procedure where preliminary hearing does not proceed**

- (1) The prosecutor shall not raise a fresh libel in any case in which the court has deserted a preliminary hearing *simpliciter* unless the court's decision has been reversed on appeal.
- (2) Where a preliminary hearing is deserted *pro loco et tempore*, the court may appoint a further preliminary hearing for a later date and the accused shall appear and answer the indictment at that hearing.
- (3) Subsection (4) below applies where, at a preliminary hearing—
  - (a) the hearing has been deserted *pro loco et tempore* for any reason and no further preliminary hearing has been appointed under subsection (2) above; or
  - (b) the indictment is for any reason not proceeded with and the hearing has not been adjourned or postponed.
- (4) Where this subsection applies, the prosecutor may, at any time within the period of two months after the relevant date, give notice to the accused on another copy of the indictment to appear and answer the indictment—
  - (a) at a further preliminary hearing in the High Court not less than seven clear days after the date of service of the notice; or
  - [<sup>F2</sup>(b) where the charge is one that can lawfully be tried in the sheriff court, at a first diet in that court not less than 29 clear days after the service of the notice.]
- (5) Where notice is given to the accused under subsection (4)(b) above, then for the purposes of section 65(4) of this Act—

**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 72C is up to date with all changes known to be in force on or before 06 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) the giving of the notice shall be taken to be service of an indictment in respect of the sheriff court; and
  - (b) the previous service of the indictment in respect of the High Court shall be disregarded.
- (6) In subsection (4) above, “the relevant date” means—
- (a) where paragraph (a) of subsection (3) above applies, the date on which the diet was deserted as mentioned in that paragraph; or
  - (b) where paragraph (b) of that subsection applies, the date of the preliminary hearing referred to in that paragraph.
- (7) A notice referred to in subsection (4) above shall be in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form.]

#### Textual Amendments

- F1** Ss. 72-72D substituted for ss. 72-73A (1.2.2005, 1.4.2005, 1.4.2006, 1.4.2007 and 2.7.2007 for certain purposes, otherwise 1.4.2008) by [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004 \(asp 5\)](#), **ss. 1(3)**, 27(1); S.S.I. 2004/405, **art. 2**, Sch. 1 (subject to arts. 3-5); S.S.I. 2005/168, **art. 2**, Sch. (with art. 4); S.S.I. 2006/59, **art. 2**, Sch. (with art. 4(1)); S.S.I. 2007/101, **art. 2**, Sch. (with art. 4); S.S.I. 2007/329, **art. 2**, Sch. (with art. 4); S.S.I. 2008/57, **art. 2** (with art. 3)
- F2** S. 72C(4)(b) substituted (29.5.2017 for specified purposes) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), **ss. 79(4)**, 117(2); S.S.I. 2017/99, **art. 3(1)(2)** (with art. 3(3)(4), 6)

**Changes to legislation:**

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[View outstanding changes](#)

**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.)