

2011 No. 430

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Amendment of the Criminal Procedure
(Scotland) Act 1995) (Refixing diets) 2011**

Made - - - - - *6th December 2011*

Laid before the Scottish Parliament *8th December 2011*

Coming into force - - - *30th January 2012*

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by section 305 of the Criminal Procedure (Scotland) Act 1995^(a) and of all other powers enabling them in that behalf do hereby enact and declare:

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Amendment of the Criminal Procedure (Scotland) Act 1995) (Refixing diets) 2011.

(2) It comes into force on 30th January 2012.

(3) A certified copy of this Act of Adjournal is to be inserted in the Books of Adjournal.

Amendment of the Criminal Procedure (Scotland) Act 1995: refixing diets

2.—(1) The Criminal Procedure (Scotland) Act 1995 is amended in accordance with subparagraphs (2) to (5).

(2) After section 75B (refixing diets)^(b) insert—

“75C Refixing diets: non-suitable days

(1) Where in any proceedings on indictment any diet has been fixed for a day which is no longer suitable to the court, it may, of its own accord, at any time before that diet—

(a) discharge the diet; and

^(a) 1995 c.46.

^(b) Section 75B was inserted by section 39 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

- (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.
- (2) Before proceeding as mentioned in subsection (1) the court shall give the parties an opportunity to be heard.
- (3) In subsections (1) and (2), “the court” means—
- (a) in the case of proceedings in the High Court, a single judge of that Court;
 - (b) in the case of proceedings in the sheriff court, that court.”.
- (3) The title of section 75B becomes “**Refixing diets: non-sitting days**”.
- (4) After section 137ZA (refixing diets)(a) insert—
- “**137ZB Refixing diets: non-suitable days**
- (1) Where in a summary prosecution any diet has been fixed for a day which is no longer suitable to the court it may, of its own accord, at any time before that diet—
- (a) discharge the diet; and
 - (b) fix a new diet for a date earlier or later than that for which the discharged diet was fixed.
- (2) Before proceeding as mentioned in subsection (1) the court shall give the parties an opportunity to be heard.”.
- (5) The title of section 137ZA becomes “**Refixing diets: non-sitting days**”.

A.C. HAMILTON
Lord Justice General
I.P.D.

Edinburgh
6th December 2011

(a) Section 137ZA was inserted by section 39 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

EXPLANATORY NOTE

(This note is not part of the Act of Adjournal)

This Act of Adjournal amends the Criminal Procedure (Scotland) Act 1995.

Paragraph 2 inserts new section 75C to give the court the power, in solemn proceedings, to refix diets in respect of days which are no longer suitable to the court.

Paragraph 3 makes the same change in respect of summary proceedings.

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SCOTTISH STATUTORY INSTRUMENTS

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£4.00

S5327 12/2011 315327T 19585

ISBN 978-0-11-101551-3



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