



SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE

ORDER

IN RESPECT OF SUMMARY CRIMINAL BUSINESS

by Sheriff Principal M W Lewis

No. 3 of 2020

**Refixing Diets in terms of Section 137ZB(1) of the Criminal Procedure (Scotland) Act 1995**

This notice replaces "Order in respect of summary criminal business No 2 of 2020" dated 26 March 2020.

This notice concerns the following categories of cases due to call in the following Courts: Alloa Sheriff and Justice of the Peace Court, Dundee Sheriff and Justice of the Peace Court, Dunfermline Sheriff and Justice of the Peace Court, Falkirk Sheriff Justice of the Peace Court, Forfar Sheriff Justice of the Peace Court, Kirkcaldy Justice of the Peace Sheriff Court, Perth Sheriff and Justice of the Peace Court, and Stirling Sheriff and Justice of the Peace Court -

1. All cases due to call, including those awaiting a first calling, in the **cited courts**;
2. All cases due to call in the **intermediate diet** courts (excepting those where the accused is in custody);
3. All cases due to call in the **remand** courts (excepting those where the accused is in custody);

4. All cases due to call in the **summary trials** courts (excepting those where the accused is in custody).

Existing diets are no longer suitable for the courts for all such cases due to call in the period between 27 March and 01 May 2020. These diets will be altered by the court in terms of section 137ZB of the Criminal Procedure (Scotland) Act 1995 (hereinafter referred to as “the 1995 Act”) (as amended by paragraph 2(5) of the Act of Adjournal (Criminal Procedure (Scotland) Act 1995 Amendment (Miscellaneous) 2020) without the need for accused or representatives to be present.

The Diets for such cases will be discharged and re-fixed (save for those cases which have already been discharged and re-fixed) as follows:

- For cases due to call on 27 March 2020, a new diet will be fixed for the week commencing 10 August 2020.
- For cases due to call in week commencing 30 March 2020, a new diet will be fixed for week commencing 17 August 2020;
- For cases due to call in week commencing 6 April 2020, a new diet will be fixed for week commencing 24 August 2020;
- For cases due to call in week commencing 13 April 2020, a new diet will be fixed for week commencing 31 August 2020;
- For cases due to call in week commencing 20 April 2020, a new diet will be fixed for week commencing 7 September 2020;
- For cases due to call in week commencing 27 April 2020, a new diet will be fixed for week commencing 14 September 2020.

**PLEASE NOTE - Pending emergency legislation different dates may be assigned for cases which are adjourned under Section 201 of the 1995 Act and for any cases to be continued without plea.**

### Resolution of cases

The court expects that the Crown and/or defence will inform the court if a case is capable of resolution at a diet earlier than the new diet specified above. In that event the following process applies:

- The Crown or defence must contact the Sheriff Clerk's Office at Falkirk Sheriff Court or Dundee Sheriff Court (reference should be made to Order in respect of solemn and summary proceedings No 1 of 2020 to identify which court is appropriate) to advise that the case is capable of resolution.
- If the case does not originate from Falkirk or Dundee Sheriff Court respectively, the Crown requires to make an application under section 137A(1) of the 1995 Act to transfer the case to that court.
- The court will accept plea(s) of guilty in writing in the absence of the accused. A letter from the defence clearly stating the terms of the plea must be provided.
- Upon receipt of the letter pleading guilty, and any s137A(1) application, a sheriff will consider the case and, if appropriate, fix a new diet under section 137B(1) of the 1995 Act. The court will intimate that diet to parties.
- If the defence is of the opinion that the case may be capable of being disposed of in the absence of the accused, written submissions in mitigation should be provided in advance of the new diet unless the defence wishes to present oral submissions in mitigation at the diet. If the invitation to the court is to call for the preparation of background reports, bearing in mind the provisions of s203(1A) of the 1995 Act regarding reports prepared not more than 3 months prior, that must be clearly stated in the submissions. In cases including a domestic abuse aggravation, any written mitigation must include submissions to assist the court to fulfil its duty in terms of section 234AZA of the 1995 Act.

- If the court considers that it can dispose of the case in the absence of the accused and without calling for background reports, it shall proceed to do so at the new diet.
- If the court decides to call for background reports, parties should be aware that it is likely that consideration of sentence will be adjourned, on cause shown, for 8 weeks in terms of section 201(1) of the 1995 Act (to take account of the pressures currently being experienced by criminal justice services in relation to the preparation of reports). The court will intimate any adjourned diet fixed in the absence of parties to Crown and defence.
- Where background reports are available in advance of the adjourned sentencing diet, the defence should provide any further written submissions in mitigation unless the defence solicitor wishes to present oral submissions in mitigation.
- If the court considers that it can dispose of the case in the absence of the accused, it shall proceed to do so. If the court considers that it requires the presence of the accused in order to pass sentence, it shall either adjourn the diet under common law or order the refixing of the diet under section 137B(1) of the 1995 Act for, in either case, an appropriate period.
- At all points in the above process, it remains the responsibility of the accused to keep in contact with their solicitor and to ensure they know when they are next required to appear in court.

This notice applies to both Sheriff Court and Justice of the Peace Court.

“M W Lewis”

Sheriff Principal of Tayside Central and Fife

Perth, 27<sup>th</sup> March 2020