



# Protection from Abuse (Scotland) Act 2001 2001 asp 14

## 5 Court appearance

- (1) If the procurator fiscal decides that no criminal proceedings are to be taken in respect of the facts and circumstances which gave rise to the arrest, the detained person must wherever practicable be brought before the sheriff sitting as a court of summary criminal jurisdiction for the district in which the person was arrested not later than in the course of the first day after the arrest, such day not being a Saturday, a Sunday or a court holiday for that court.
- (2) Nothing in subsection (1) prevents the detained person from being brought before the sheriff on a Saturday, a Sunday or a court holiday if the sheriff is sitting on such a day for the disposal of criminal business.
- (3) When the detained person is brought before the sheriff under this section the procurator fiscal must present to the court a petition—
  - (a) giving particulars of the detained person;
  - (b) stating the facts and circumstances which gave rise to the arrest;
  - (c) giving any information known to the procurator fiscal about the circumstances which gave rise to the interdict and the attachment of the power of arrest;
  - (d) giving any other information known to the procurator fiscal and relevant to an assessment of the risk of abuse or further abuse in breach of the interdict; and
  - (e) requesting the court to consider whether, on the information presented, a further period of detention is justified.
- (4) If it appears to the sheriff, after affording the detained person the opportunity to make representations, that—
  - (a) the information presented to the court discloses a prima facie breach of the interdict by that person; and
  - (b) there would, if further detention were not ordered, be a substantial risk of abuse or further abuse by that person in breach of the interdict,the sheriff may order that person to be detained for a further period not exceeding 2 days.

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*Status: This is the original version (as it was originally enacted).*

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- (5) If the sheriff does not order further detention the detained person must, unless in custody in respect of any other matter, be released from custody.