



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 8

#### EVIDENTIAL, JURISDICTIONAL AND PROCEDURAL MATTERS

##### *Jurisdictional matters*

#### **58 Transfer of sheriff court proceedings**

- (1) In section 83 of the 1995 Act (transfer of sheriff court solemn proceedings)—
- (a) in subsection (1), for the words “, at any time before the commencement of his trial, apply to the sheriff to adjourn the trial and transfer it to a sitting of a sheriff court, appointed as mentioned in section 66(1) of this Act, in any other district in that sheriffdom” there is substituted “ apply to the sheriff for an order for the transfer of the proceedings to a sheriff court in another district in that sheriffdom (that court being taken to be, by virtue of any such order, appointed as mentioned in section 66(1) of this Act) and for adjournment to a sitting of that court ”;
  - (b) after subsection (1) there is inserted—
    - “(1A) Where—
      - (a) an accused person has been cited to attend a sitting of the sheriff court; or
      - (b) paragraph (a) above does not apply but it is competent so to cite an accused person,and the prosecutor is informed by the sheriff clerk that, because of exceptional circumstances which could not reasonably have been foreseen, it is not practicable for that court (in subsection (2A)(b)(i) below referred to as the “relevant court”) or any other sheriff court in that sheriffdom to proceed with the case, the prosecutor—
      - (i) may, where paragraph (b) above applies, so cite the accused; and
      - (ii) shall, where paragraph (a) above applies or the accused is so cited by virtue of paragraph (i) above, as soon as practicable apply to the sheriff principal for an order for the transfer

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2003, Cross Heading: Jurisdictional matters is up to date with all changes known to be in force on or before 22 March 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*

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- of the proceedings to a sheriff court in another sheriffdom (that court being taken to be, by virtue of any such order, appointed as mentioned in section 66(1) of this Act) and for adjournment to a sitting of that court.”;
- (c) in subsection (2), for the words “adjourn the trial and make an order for the transfer of the trial as mentioned in subsection (1) above” there is substituted “ make such order as is mentioned in that subsection ”;
- (d) after subsection (2) there is inserted—
- “(2A) On an application under subsection (1A) above the sheriff principal may make the order sought—
- (a) provided that the sheriff principal of the other sheriffdom consents; but
- (b) in a case where the trial (or part of the trial) would be transferred, shall do so only—
- (i) if the sheriff of the relevant court, after giving the accused or his counsel an opportunity to be heard, consents to the transfer; or
- (ii) on the joint application of the parties.
- (2B) On the application of the prosecutor, a sheriff principal who has made an order under subsection (2A) above may, if the sheriff principal of the other sheriffdom mentioned in that subsection consents—
- (a) revoke; or
- (ii) vary so as to restrict the effect of, that order.”; and
- (e) in subsection (3), for the words from “the trial has been adjourned” to the end there is substituted “ there has then been an order under subsection (2) or (2A) above, the warrant shall, subject to subsection (2B) above, have effect subject to the adjournment provided for in the order and as if the sitting is a sitting of the court to which the proceedings have been transferred ”.
- (2) After section 137 of that Act there is inserted—

**“137A Transfer of sheriff court summary proceedings within sheriffdom**

- (1) Where an accused person has been cited to attend a diet of the sheriff court the prosecutor may apply to the sheriff for an order for the transfer of the proceedings to a sheriff court in any other district in that sheriffdom and for adjournment to a diet of that court.
- (2) On an application under subsection (1) above the sheriff may make such order as is mentioned in that subsection.

**137B Transfer of sheriff court summary proceedings outwith sheriffdom**

- (1) Where—
- (a) an accused person has been cited to attend a diet of the sheriff court; or
- (b) paragraph (a) does not apply but it is competent so to cite an accused person,

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and the prosecutor is informed by the sheriff clerk that, because of exceptional circumstances which could not reasonably have been foreseen, it is not practicable for that court or any other sheriff court in that sheriffdom to proceed with the case, the prosecutor—

- (i) may, where paragraph (b) above applies, so cite the accused; and
  - (ii) shall, where paragraph (a) above applies or the accused is so cited by virtue of paragraph (i) above, as soon as practicable apply to the sheriff principal for an order for the transfer of the proceedings to a sheriff court in another sheriffdom and for adjournment to a diet of that court.
- (2) On an application under subsection (1) above the sheriff principal may make the order sought, provided that the sheriff principal of the other sheriffdom consents.
- (3) On the application of the prosecutor, a sheriff principal who has made an order under subsection (2) above may, if the sheriff principal of the other sheriffdom mentioned in that subsection consents—
- (a) revoke; or
  - (b) vary so as to restrict the effect of, that order.”.

## 59 Competence of justice’s actings outwith jurisdiction

After section 9 of the 1995 Act there is inserted—

### “9A Competence of justice’s actings outwith jurisdiction

It is competent for a justice, even if not present within his jurisdiction, to sign any warrant, judgment, interlocutor or other document relating to proceedings within that jurisdiction provided that when he does so he is present within Scotland.”.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) and purposes Appointed Day(s) by [S.S.I. 2003/439 art. 23Sch.](#) (Effect not applied to [legislation.gov.uk](#). This S.S.I. is revoked (1.10.2003) by S.S.I. 2003/475, art. 4)

**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. 16D inserted by [2023 asp 4 s. 14\(3\)](#)
- s. 16ZA inserted by [2023 asp 4 s. 14\(2\)](#)
- s. 17E(6) inserted by [2023 asp 4 s. 14\(7\)\(d\)](#)
- s. 17DA inserted by [2023 asp 4 s. 14\(6\)](#)
- s. 17ZA inserted by [2023 asp 4 s. 14\(4\)](#)
- s. 18A(5) inserted by [2023 asp 4 s. 14\(8\)\(b\)](#)