



# Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

## PART 2

### PROCEEDINGS

#### *Transfer of summary cases*

#### **22 Transfer of proceedings**

(1) In section 137A (transfer of sheriff court summary proceedings within sheriffdom) of the 1995 Act—

- (a) in subsection (1), for the words “an accused person has been cited to attend a diet of the sheriff court” there is substituted “ this subsection applies, ”,
- (b) after subsection (1) there is inserted—

“(1A) Subsection (1) above applies—

- (a) where the accused person has been cited in summary proceedings to attend a diet of the court; or
- (b) if the accused person has not been cited to such a diet, where summary proceedings against the accused have been commenced in the court.”.

(2) In section 137B (transfer of sheriff court summary proceedings outwith sheriffdom) of that Act—

- (a) for subsection (1) there is substituted—

“(1) Where the sheriff clerk informs the prosecutor that, because of exceptional circumstances which could not reasonably have been foreseen, it is not practicable for the sheriff court or any other sheriff court in the sheriffdom to proceed with some or all of the summary cases due to call at a diet, the prosecutor shall as soon as practicable apply to the sheriff principal for an order for—

- (a) the transfer of the proceedings to a sheriff court in another sheriffdom; and

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- (b) adjournment to a diet of that court.”,
- (b) after subsection (1) there is inserted—
- “(1A) Where this subsection applies, the prosecutor may apply to the sheriff for an order for—
- (a) the transfer of the proceedings to a sheriff court in another sheriffdom; and
- (b) adjournment to a diet of that court,
- if there are also summary proceedings against the accused person in that court in the other sheriffdom.
- (1B) Subsection (1A) above applies—
- (a) where the accused person has been cited in summary proceedings to attend a diet of the court; or
- (b) if the accused person has not been cited to such a diet, where summary proceedings against the accused have been commenced in the court.
- (1C) Where the prosecutor intends to take summary proceedings against an accused person in the sheriff court, the prosecutor may apply to the sheriff for an order for authority for the proceedings to be taken at a sheriff court in another sheriffdom if there are also summary proceedings against the accused person in that court in the other sheriffdom.”,
- (c) after subsection (2) there is inserted—
- “(2A) On an application under subsection (1A) or (1C) above, the sheriff is to make the order sought if—
- (a) the sheriff considers that it would be expedient for the different cases involved to be dealt with by the same court; and
- (b) a sheriff of the other sheriffdom consents.”,
- (d) after subsection (3) there is added—
- “(4) On the application of the prosecutor, a sheriff who has made an order under subsection (2A) above may, if a sheriff of the other sheriffdom mentioned in paragraph (b) of that subsection consents—
- (a) revoke; or
- (b) vary so as to restrict the effect of, that order.”.
- (3) After section 137B of that Act there is inserted—

**“137C Custody cases: initiating proceedings outwith sheriffdom**

- (1) Where the prosecutor believes—
- (a) that, because of exceptional circumstances (and without an order under subsection (3) below), it is likely that there would be an unusually high number of accused persons appearing from custody for the first calling of cases in summary prosecutions in the sheriff courts in the sheriffdom; and

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- (b) that it would not be practicable for those courts to deal with all the cases involved,
- the prosecutor may apply to the sheriff principal for the order referred to in subsection (2) below.
- (2) For the purposes of subsection (1) above, the order is for authority for summary proceedings against some or all of the accused persons to be—
    - (a) taken at a sheriff court in another sheriffdom; and
    - (b) maintained—
      - (i) there; or
      - (ii) at any of the sheriff courts referred to in subsection (1) above as may at the first calling of the case be appointed for further proceedings.
  - (3) On an application under subsection (1) above, the sheriff principal may make the order sought with the consent of the sheriff principal of the other sheriffdom.
  - (4) An order under subsection (3) above may be made by reference to a particular period or particular circumstances.

### **137D Transfer of JP court proceedings to the sheriff court**

- (1) Where an accused person is due to be sentenced at a sheriff court for an offence, the prosecutor may apply to the sheriff for an order for—
  - (a) the transfer to the sheriff court of any case against the accused in respect of which sentencing is pending at any JP court in the sheriffdom; and
  - (b) the case to call at a diet of the sheriff court.
- (2) On an application under subsection (1) above, the sheriff is to make the order sought if the sheriff considers that it would be expedient for the different cases to be disposed of at the same court at the same time.
- (3) If, in a case transferred under subsection (1) above, the finding of guilt was before a justice of the peace, the sentencing powers of the sheriff in the case are restricted to those of the justice.”.

## **23 Time bar for transferred and related cases**

After section 136 of the 1995 Act there is inserted—

### **“136A Time limits for transferred and related cases**

- (1) This section applies where the prosecutor recommences proceedings by complaint containing both—
    - (a) a charge to which proceedings—
      - (i) transferred to a court by authority of an order made in pursuance of section 137A(1) of this Act; or
      - (ii) transferred to, or taken at, a court by authority of an order made in pursuance of section 137B(1), (1A) or (1C) of this Act,
- relate; and

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- (b) a charge to which previous proceedings at that court relate.
- (2) Where this section applies, proceedings for an offence charged in that complaint are, for the purposes of—
- (a) section 136 of this Act (so far as applying to the offence);
  - (b) any provision of any other enactment for a time limit within which proceedings are to be commenced (so far as applying to the offence);  
and
  - (c) any rule of law relating to delay in bringing proceedings (so far as applying to the offence),
- to be regarded as having been commenced when any previous proceedings for the offence were first commenced.”.

**Changes to legislation:**

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