



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 3

### CRIMINAL PROCEDURE

#### *Transfer of justice of the peace court cases*

#### **61 Transfer of justice of the peace court cases**

After section 137C of the 1995 Act insert—

##### **“137CA Transfer of JP court proceedings within sheriffdom**

- (1) Subsection (2) applies—
  - (a) where the accused person has been cited in summary proceedings to attend a diet of a JP 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 a JP court.
- (2) The prosecutor may apply to a justice for an order for the transfer of the proceedings to another JP court in the sheriffdom (and for adjournment to a diet of that court).
- (3) On an application under subsection (2), the justice may make the order sought.
- (4) In this section and sections 137CB and 137CC, “justice” does not include the sheriff.

##### **137CB Transfer of JP court proceedings outwith sheriffdom**

- (1) Subsection (2) applies where the clerk of a JP court informs the prosecutor that, because of exceptional circumstances which could not reasonably have been foreseen, it is not practicable for the JP court or any other JP court in the

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*Status: This is the original version (as it was originally enacted).*

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sheriffdom to proceed with some or all of the summary cases due to call at a diet.

- (2) The prosecutor shall as soon as practicable apply to the sheriff principal for an order for the transfer of the proceedings to a JP court in another sheriffdom (and for adjournment to a diet of that court).
- (3) Subsection (4) applies where—
  - (a) either—
    - (i) the accused person has been cited in summary proceedings to attend a diet of a JP court, or
    - (ii) if the accused person has not been cited to such a diet, summary proceedings against the accused have been commenced in a JP court, and
  - (b) there are also summary proceedings against the accused person in a JP court in another sheriffdom.
- (4) The prosecutor may apply to a justice for an order for the transfer of the proceedings to a JP court in the other sheriffdom (and for adjournment to a diet of that court).
- (5) Subsection (6) applies where—
  - (a) the prosecutor intends to take summary proceedings against an accused person in a JP court, and
  - (b) there are also summary proceedings against the accused person in a JP court in another sheriffdom.
- (6) The prosecutor may apply to a justice for an order for authority for the proceedings to be taken at a JP court in the other sheriffdom.
- (7) On an application under subsection (2), the sheriff principal may make the order sought with the consent of the sheriff principal of the other sheriffdom.
- (8) On an application under subsection (4) or (6), the justice is to make the order sought if—
  - (a) the justice considers that it would be expedient for the different cases involved to be dealt with by the same court, and
  - (b) a justice of the other sheriffdom consents.
- (9) On the application of the prosecutor, the sheriff principal who has made an order under subsection (7) may, with the consent of the sheriff principal of the other sheriffdom—
  - (a) revoke the order, or
  - (b) vary it so as to restrict its effect.
- (10) On the application of the prosecutor, the justice who has made an order under subsection (8) (or another justice of the same sheriffdom) may, with the consent of a justice of the other sheriffdom—
  - (a) revoke the order, or
  - (b) vary it so as to restrict its effect.

### **137CC Custody cases: initiating JP court proceedings outwith sheriffdom**

- (1) Subsection (2) applies where the prosecutor believes—
  - (a) that, because of exceptional circumstances (and without an order under subsection (3)), 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 JP courts in the sheriffdom, and
  - (b) that it would not be practicable for those courts to deal with all the cases involved.
- (2) The prosecutor may apply to the sheriff principal for an order authorising summary proceedings against some or all of the accused persons to be—
  - (a) taken at a JP court in another sheriffdom, and
  - (b) maintained—
    - (i) at that JP court, or
    - (ii) at any of the JP courts referred to in subsection (1) as may at the first calling of the case be appointed for further proceedings.
- (3) On an application under subsection (2), 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) may be made by reference to a particular period or particular circumstances.”.