

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 4 – Justice

Part 3 - Cases beginning with an appearance from custody

Ability to take case in any sheriff court

125. Paragraph 8(1) of schedule 4 makes provision for first appearances from police custody and the continuation of those proceedings to be heard in any sheriff court by a sheriff of any sheriffdom and sets out the limits of that jurisdiction.
126. Paragraph 8(1)(a) and (b) provides where an accused appears in court for the first time from police custody, that first calling of criminal proceedings may be taken in any sheriff court in Scotland and may be dealt with in that court by a sheriff of any sheriffdom.
127. Paragraph 8(2)(a) and (b) sets out when a first calling of criminal proceedings involves an appearance from police custody for the purposes of subparagraph (1).
128. Paragraph 8(3) provides it is for the Lord Advocate or the procurator fiscal to determine which sheriff court a calling is to be taken in under subparagraph (1).
129. Paragraph 8(4) to (6) extends the national jurisdiction of the court beyond the first calling of criminal proceedings from police custody.
130. Subparagraph (5) makes provision for the court of first appearance from police custody and a sheriff of any sheriffdom to be able to continue to deal with criminal proceedings after the first calling subject to the qualifications set out in subparagraph (6).
131. Subparagraph (6)(a) sets out when the national courts' jurisdiction ends for proceedings on petition or indictment. The effect of subparagraph (6)(a) is that the court of national jurisdiction may deal with any continuation of proceedings on petition or indictment from first appearance from police custody up until the accused is fully committed (committed until liberated in due course of law) or until the conclusion of any earlier hearing at which a plea of not guilty is tendered and not accepted by the procurator fiscal.
132. Subparagraph (6)(b) sets out when the national courts' jurisdiction ends for summary criminal proceedings. The effect of subparagraph (6)(b) is that the court of national jurisdiction may deal with any continuation of summary criminal proceedings from first appearance from police custody up until and including final disposal of a plea of guilty or until the conclusion of a hearing at which a plea of not guilty is tendered and not accepted by the procurator fiscal.
133. Subparagraph (7) makes it clear that criminal proceedings involving multiple accused or other persons are covered by paragraph 8.

*These notes relate to the Coronavirus (Scotland) Act
2020 (asp 7) which received Royal Assent on 6 April 2020*

134. Paragraph 9 contains supporting provisions to give effect to the operation of paragraph 8.
135. Paragraph 9(1) provides a sheriff court has jurisdiction for all cases which come before it by virtue of paragraph 8.
136. Paragraph 9(2) and (3) confers powers of national jurisdiction upon procurators fiscal and sheriffs, including summary sheriffs, to support the operation of paragraph 8.
137. Paragraph 9(4) sets out the definition of “criminal proceedings” for the purpose of paragraphs 8 and 9. This includes proceedings on petition, indictment, summary criminal proceedings and ancillary proceedings such as those set out in subparagraph (4) (d).
138. The effect of subparagraph (4)(d) is that ancillary proceedings are distinct from criminal proceedings on petition, indictment or summary complaint for the operation of a national courts’ jurisdiction under paragraph 8.
139. This means where the national courts’ jurisdiction ends under paragraph 8(6) as a result of, for example, a plea of not guilty in a summary case, or after committal until liberation of due course of law in an indictment case, and an accused or witness in ongoing criminal proceedings subsequently fails to appear at a diet of which they have been given due notice, under paragraph 9(4)(d)(iv), the national court will continue to have jurisdiction over any subsequent appearance from custody upon an apprehension warrant for non-appearance, as this constitutes ancillary proceedings.