



Protection from Abuse (Scotland) Act 2001

2001 asp 14

5 Court appearance

(1) [^{F1}Where a person is detained under section 4(2), the] 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.

[^{F2}(2A) Subsections (3) to (5) apply where, on being brought before the sheriff under this section, the detained person is not accused on petition or charged on complaint with an offence in respect of the facts and circumstances giving rise to the arrest.]

(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,

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Changes to legislation: There are currently no known outstanding effects for the Protection from Abuse (Scotland) Act 2001, Section 5. (See end of Document for details)

the sheriff may order that person to be detained for a further period not exceeding 2 days.

- (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.

Textual Amendments

- F1** Words in s. 5(1) substituted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Modification of Part 1 and Ancillary Provision) Regulations 2017 (S.S.I. 2017/453), reg. 1, **sch. para. 3(3)(a)**
- F2** S. 5(2A) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Modification of Part 1 and Ancillary Provision) Regulations 2017 (S.S.I. 2017/453), reg. 1, **sch. para. 3(3)(b)**

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