

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 8 – Evidential, Jurisdictional and Procedural Matters

Section 58 – Transfer of sheriff court proceedings

313. **Section 58** amends sections 83 and 137 of the Criminal Procedure (Scotland) Act 1995 to allow cases to be transferred from one sheriffdom to another as well as within a sheriffdom. Transfer between sheriffdoms will only be with the consent of the sheriff principals of both sheriffdoms.
314. Section 83 of the 1995 Act currently allows the transfer of cases from one sheriff to another within a sheriffdom, in relation to trials in solemn proceedings.
315. **Section 58(1)** amends subsection (1), inserts new subsections (1A), (2A) and (2B) and amends subsection (3) of section 83 of the 1995 Act to provide that:
- the sheriff may transfer a solemn case within the sheriffdom at any stage in the proceedings to a sitting of a sheriff court in any other district in that sheriffdom. The prosecutor may apply to the sheriff for an order to transfer it to a sitting of another sheriff court which shall be taken to be appointed under Section 66(1) of the 1995 Act;
 - under subsection (1A) of section 83 the sheriff principal may transfer a solemn case outwith the sheriffdom at any stage in the proceedings where, due to exceptional circumstances it is not practicable for a case to be held in the respective sheriff court or any other in the sheriffdom. The prosecutor may apply to the sheriff principal for an order to transfer it to a sitting of a sheriff court, which shall be taken to be appointed under Section 66(1) of the 1995 Act, in another sheriffdom, providing the sheriff principal of the other sheriffdom consents;
 - where an application is made under subsection (1A) in relation to a solemn trial, the sheriff principal may make such an order on joint motion or after giving the accused or the accused's counsel an opportunity to be heard by the sheriff, provided the sheriff hearing parties and the sheriff principal of the other sheriffdom consent; and
 - the provisions in subsection (3) shall apply to subsection (2A).
316. **Section 58(2)** inserts new sections 137A and 137B into the 1995 Act. New section 137A provides that in summary proceedings, the prosecutor may, at any stage in a criminal case, apply to the sheriff to transfer it to a sitting of a sheriff court in any other district in that sheriffdom.
317. New section 137B provides that where, due to exceptional circumstances it is not practicable for a case to be held in the respective sheriff court or any other in the sheriffdom, the prosecutor may at any stage in the case apply to the sheriff principal for an order to transfer it to a sitting of a sheriff court in another sheriffdom provided the sheriff principal of the other sheriffdom agrees.