

SCHEDULE 4 JUSTICE

PART 3

CASES BEGINNING WITH AN APPEARANCE FROM CUSTODY

Ability to take case in any sheriff court

- 8 (1) If it involves an appearance from police custody, a first calling of criminal proceedings in the sheriff court may—
- (a) be taken in any sheriff court in Scotland, and
 - (b) be dealt with in that court by a sheriff of any sheriffdom.
- (2) For the purposes of sub-paragraph (1), a first calling of proceedings involves an appearance from police custody if the person who is the accused or otherwise the subject of the proceedings—
- (a) was arrested by a constable in connection with the offence or other matter to which the proceedings relate, and
 - (b) is not released from custody before the appearance.
- (3) Where sub-paragraph (1) applies, it is for the Lord Advocate or the procurator fiscal to determine which sheriff court a first calling is to be taken in.
- (4) Sub-paragraph (5) applies where a first calling of criminal proceedings comes before a sheriff court by virtue of sub-paragraph (1).
- (5) The proceedings may continue to be dealt with—
- (a) in the same sheriff court, and
 - (b) by a sheriff of any sheriffdom.
- (6) But that court can no longer deal—
- (a) with proceedings on petition or indictment, after—
 - (i) committal until liberation in due course of law, or
 - (ii) any earlier calling at which a plea of not guilty is tendered by the accused but not accepted by the prosecutor,
 - (b) with summary criminal proceedings, after a calling at which a plea of not guilty is tendered by the accused but not accepted by the prosecutor.
- (7) References in this paragraph to the accused or other person who is the subject of the proceedings are to be read in relation to proceedings in which there is more than one such person as a reference to at least one of them.

Paragraph 8: supporting provision

- 9 (1) A sheriff court has jurisdiction for all cases which come before it by virtue of paragraph 8.
- (2) A procurator fiscal for a sheriff court district has—
- (a) power to prosecute or, as the case may be, represent the interests of the prosecutor in any case that comes before the sheriff court of that district by virtue of paragraph 8,

Status: This is the original version (as it was originally enacted).

- (b) the like powers in relation to such cases as the prosecutor has for the purposes of other cases that come before the sheriff when exercising criminal jurisdiction.
- (3) For the purposes of paragraph 8, a sheriff may, without the need for further commission, exercise the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings in every sheriffdom (and the same applies accordingly to any other member of the judiciary, so far as that member has the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings).
- (4) In paragraph 8 and this paragraph, “criminal proceedings” means any proceedings in which a court is exercising criminal jurisdiction including in particular—
- (a) proceedings on indictment,
 - (b) proceedings on petition,
 - (c) summary criminal proceedings,
 - (d) ancillary proceedings such as proceedings in respect of—
 - (i) breach of bail,
 - (ii) non-payment of a fine or other monetary penalty,
 - (iii) breach of an order of a court, or
 - (iv) failure of an accused person or a witness to attend a diet.
- (5) Any expression used in paragraph 8 or this paragraph which is also used in the Criminal Procedure (Scotland) Act 1995 has the same meaning here as it does there.
- (6) Paragraph 8 and this paragraph are without prejudice to sections 4 to 10, 34A and 137C of the Criminal Procedure (Scotland) Act 1995.