

2022

CRIMINAL COURTS

DETERMINATION

Disapplication of certain requirements for physical attendance in criminal proceedings.

The Lord Justice General, by virtue of the powers conferred by paragraph 7 of Chapter 2 of the Schedule of the Coronavirus (Recovery and Reform (Scotland) Act 2022, makes the following determination:

1. Commencement

This Determination comes into force on 1 October 2022.

2. In all courts

Where the court is satisfied that a person is suffering from coronavirus or is required by government health regulations or advice to remain in self-isolation, it may disapply the requirement that that person physically attend court.

3. In the High Court of Justiciary

A requirement physically to attend court is disapplied in respect of the following persons:

- a person detained (either imprisoned or otherwise lawfully detained) participating in a substantive appeal hearing in the High Court of Justiciary ;
- a person detained (either imprisoned or otherwise lawfully detained) participating in a hearing in the High Court of Justiciary to which reference is made in PART XI (Sentencing) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”);
- a person participating in a procedural hearing relating to appeal proceedings in the High Court of Justiciary;
- a person participating in a Preliminary Hearing or a Continued Preliminary Hearing in the High Court of Justiciary.

4. In the Sheriff Appeal Court

A requirement physically to attend court is disapplied in respect of a person participating in a bail appeal.

5. In the Sheriff and Justice of the Peace courts

A requirement physically to attend court is disapplied in respect of a person detained (either imprisoned or otherwise lawfully detained) who is appearing in the following hearings:

- a full committal hearing in all courts in all sheriffdoms;
- a preliminary hearing for extradition proceedings in Edinburgh Sheriff court in the sheriffdom of Lothian and Borders;
- in the sheriffdoms of (a) Tayside, Central and Fife, (b) South Strathclyde, Dumfries and Galloway and (c) Grampian, Highlands and Islands, a hearing under
 - (i) section 134 (incidental applications);
 - (ii) section 137 (alteration of diets);
 - (iii) section 200 (remand for inquiry into physical or mental condition);
 - (iv) section 201 (power of court to adjourn case before sentence);
 - (v) section 202 (deferred sentence);
 - (vi) section 227ZC (breach of community payback order:);
 - (vii) section 227X (periodic review of community payback orders);
 - (viii) 227Y (applications to vary, revoke and discharge community payback orders);
 - (ix) 234F (periodic review of drug treatment and testing orders);
 - (x) 234G (breach of drug testing order);
 - (xi) 245F (breach of restriction of liberty order) of the 1995 Act in the sheriff courts, all of the 1995 Act.

CJM SUTHERLAND
Lord Justice General
30 September 2022