

2008 No. 61

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules Amendment)
(Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2008**

Made - - - - - *20th February 2008*

Coming into force - - - - - *10th March 2008*

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by sections 156(5)(b)(i)(a), 226F(1)(b) and 305 of the Criminal Procedure (Scotland) Act 1995(c), and of all other powers enabling them in that behalf do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2008 and shall come into force on 10th March 2008.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

(3) In this Act of Adjournal, “the Rules” means the Criminal Procedure Rules 1996(d).

Establishment of justice of the peace courts

2.—(1) For paragraph 2 of the Act of Adjournal (Criminal Procedure Rules) 1996(e) substitute—

“2. Schedule 2 to this Act of Adjournal shall have effect for the purpose of providing rules of procedure in the High Court of Justiciary, in the sheriff court in the exercise of its criminal jurisdiction and in a justice of the peace court.”.

(2) In the Rules, for the words “district court”, “[district] court” and “district courts” wherever they appear in the following provisions, substitute “justice of the peace court”, “[justice of the peace] court” and “justice of the peace courts” respectively—

(a) rule 18.1(4);

(a) Section 156 was inserted by section 16 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(b) Section 226F was inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(c) 1995 c.46.

(d) The Criminal Procedure Rules 1996 are contained in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules 1996) (S.I. 1996/513, last amended by S.S.I. 2007/511).

(e) S.I. 1996/513, last amended by S.S.I. 2007/511.

- (b) rule 32.2(1);
- (c) rule 36.2(3);
- (d) Forms 2.6-B, 2.6-BA(a), 2.6D, 2.6-EA(b), 2.6-EB(c), 2.6-EC(d), 2.6-ED(e), 2.6-EE(f), 2.6-EF(g), 2.6-EG(h), 2.6-EH, 2.6-F, A4.1(i), 16.1-A, 16.1-BB(j), 16.4-C(k), 16.6-A, 16.6-C, 16.6-D, 16.7, 17.1, 19.1-A, 19.2-A(l), 19.2-B, 19.3-A(m), 19.4, 19.5, 19.7, 19.9, 20.3-B(n), 20.3-C(o), 20.6-A, 20.6-B, 20.6-C, 20.8, 20.9-A, 20.9-B, 20.9-C, 20.10-B(p), 20.10-C(q), 20.10B, 20.11-C(r), 20.11-D(s), 20.12-B(t), 20.12A-B(u), 20.12A-C(v), 20.12A-D(w), 20.12B-B(x), 20.12B-C(y), 20.12C-B(z), 20.12C-C(aa), 20.18-B, 20.19-A, 20.19-B, 21.1-A, 21.3, 21.5(bb), 27.3, 28.1-B, 28.2, 29.1-B(cc), 31.5, 31.7, 32.2, 36.2(dd), 38(ee), 40.3A(ff), 40.3A-A(gg), 40.3B(hh), 40.4A(ii), 40.4A-A(jj), 40.4B(kk), 40.7(ll), 40.12(mm), 46.2(nn), 51.4(oo) and 51.6(pp).

(3) The references in the Act of Adjournal (Criminal Procedure Rules) 1996 to “justice of the peace court”, “[justice of the peace] court” and “justice of the peace courts” include, so far as still relevant, “district court”, “[district] court” and “district courts” respectively.

(4) Subject to subparagraph (5), subparagraph (3) ceases to apply at such time as there cease to be any district courts.

(5) Subparagraph (3) continues to apply after the time mentioned in subparagraph (4) in so far as necessary for the purposes of any appeal from a district court.

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- (a) Form 2.6-BA was inserted by S.S.I. 2003/468.
 - (b) Form 2.6-EA was substituted by S.S.I. 2003/468.
 - (c) Form 2.6-EB was inserted by S.S.I. 2003/468.
 - (d) Form 2.6-EC was inserted by S.S.I. 2003/468.
 - (e) Form 2.6-ED was inserted by S.S.I. 2003/468.
 - (f) Form 2.6-EE was inserted by S.S.I. 2003/468.
 - (g) Form 2.6-EF was inserted by S.S.I. 2003/468.
 - (h) Form 2.6-EG was inserted by S.S.I. 2005/160.
 - (i) Form A4.1 was inserted by S.S.I. 2007/511.
 - (j) Form 16.1-BB was inserted by S.S.I. 2003/468.
 - (k) Form 16.4-C was amended by S.S.I. 2002/454.
 - (l) Form 19.2-A was amended by S.I. 1997/1834.
 - (m) Form 19.3-A was amended by S.I. 1997/1834.
 - (n) Form 20.3-B was inserted by S.S.I. 2003/468.
 - (o) Form 20.3-C was inserted by S.S.I. 2003/468.
 - (p) Form 20.10-B was amended by S.S.I. 2003/468.
 - (q) Form 20.10-C was inserted by S.S.I. 2003/468.
 - (r) Form 20.11-C was inserted by S.S.I. 2003/468.
 - (s) Form 20.11-D was inserted by S.S.I. 2003/468.
 - (t) Form 20.12-B was substituted by S.S.I. 2003/468.
 - (u) Form 20.12A-B was inserted by S.I. 1998/1842 and amended by S.S.I. 2003/468.
 - (v) Form 20.12A-C was inserted by S.I. 1998/1842 and amended by S.S.I. 2003/468.
 - (w) Form 20.12A-D was inserted by S.I. 1998/1842 and amended by S.S.I. 2003/468.
 - (x) Form 20.12B-B was inserted by S.S.I. 2003/468.
 - (y) Form 20.12B-C was inserted by S.S.I. 2003/468.
 - (z) Form 20.12C-B was inserted by S.S.I. 2005/160.
 - (aa) Form 20.12C-C was inserted by S.S.I. 2005/160.
 - (bb) Form 21.5 was inserted by S.S.I. 2002/454 and amended by S.S.I. 2006/302.
 - (cc) Form 29.1-B was amended by S.S.I. 2005/188.
 - (dd) Form 36.2 was inserted by S.S.I. 2004/195.
 - (ee) Form 38 was inserted by S.I. 1997/1834.
 - (ff) Form 40.3A was inserted by S.I. 1999/1346 and amended by S.S.I. 2007/361.
 - (gg) Form 40.3A-A was inserted by S.S.I. 2007/361.
 - (hh) Form 40.3B was inserted by S.I. 1999/1346.
 - (ii) Form 40.4A was inserted by S.S.I. 2007/361.
 - (jj) Form 40.4A-A was inserted by S.S.I. 2007/361.
 - (kk) Form 40.4B was inserted by S.I. 1999/1346.
 - (ll) Form 40.7 was inserted by S.S.I. 2007/361.
 - (mm) Form 40.12 was inserted by S.I. 1999/1346.
 - (nn) Form 46.2 was inserted by S.S.I. 2004/206.
 - (oo) Form 51.4 was inserted by S.S.I. 2007/238.
 - (pp) Form 51.6 was inserted by S.S.I. 2007/238.

Pre-trial time limits

3.—(1) Before rule 17.1 of the Rules (appeals against extension of period of detention) in Chapter 17 (summary pre-trial procedure) insert—

“Applications for extension of period of detention

17.A1. An application made in writing for extension of time under section 147 of the Act of 1995 (prevention of delay in trials)(a) shall be in Form 17.A1 and shall be intimated to the other parties by the applicant.”.

(2) After Form 16.7 in the appendix to the Rules insert Form 17.A1 set out in the Schedule to this Act of Adjournal.

Obstructive witnesses

4.—(1) For rule 18.3 of the Rules (warrant to apprehend witness who fails to appear) substitute—

“Warrants for apprehension of witnesses

18.3.—(1) An application made in writing for a warrant for the apprehension of a witness under section 156 or 156C of the Act of 1995 (apprehension of witnesses)(b) shall be in Form 18.3-A.

(2) On receipt of an application under paragraph (1), the clerk of court shall fix a diet for the hearing of the application and intimate the date of the hearing to the parties.

(3) A warrant for the apprehension of a witness under section 156(1) of the Act of 1995 shall be in Form 18.3-B.

Review by witnesses of orders made under section 156A

18.3A. An application under section 156C(2)(a) of the Act of 1995 (application by party for review of order under section 156A(1)(b)) shall be in Form 18.3A.

Citation of witnesses under section 156C(5)

18.3B. The citation of a witness under section 156C(5)(b) shall be in Form 18.3B.

Appeals in respect of orders made under section 156A(1)

18.3C. An appeal under section 156D(1) of the 1995 Act (appeals in respect of orders under section 156A(1)(c)) shall be in Form 18.3C.”.

(2) For Form 18.3 in the appendix to the Rules substitute Forms 18.3-A, 18.3-B, 18.3A, 18.3B and 18.3C set out in the Schedule to this Act of Adjournal.

Enforcement of fines etc.

5.—(1) After rule 20.9 of the Rules (transfer of fines) insert—

“Enforcement orders

20.9A. An order under section 226B of the Act of 1995 (enforcement orders)(d) shall be in Form 20.9A and the form of warrant for civil diligence granted under section 226F of

(a) Section 147 was amended by section 11 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(b) Section 156 was inserted by section 16 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(c) Section 156D was inserted by section 16 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(d) Section 226B was inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

that Act (powers of diligence)(a) in respect of the order shall be in the form set out in that Form.

Application for an order for sale or disposal of a vehicle

20.9B.—(1) An application for an order for sale or disposal of a vehicle under section 226D(6) of the Act of 1995 (seizure of vehicles)(b) shall be in Form 20.9B-A and a copy shall be served on the offender by the fines enforcement officer.

(2) Where an offender objects to an application under paragraph (1) he shall, within 7 days of its receipt, lodge with the clerk of court a response in the form of numbered paragraphs which correspond to the paragraphs of that application.

(3) The court may fix a diet for hearing an application mentioned in paragraph (1) and any response lodged under paragraph (2) in relation to the application.

(4) Where the court fixes a diet under paragraph (3) the clerk of court shall intimate the diet to the offender and the applicant.

(5) An order under section 226D(6) of the Act of 1995 shall be in Form 20.9B-B.

Application by a third party claiming to own vehicle

20.9C.—(1) An application to a sheriff under section 226D(7)(b)(ii) of the Act of 1995 by a third party who claims to own the vehicle shall be in Form 20.9C.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) the clerk of court shall intimate—

(a) the application and the diet to—

(i) the offender subject to the enforcement order in terms of which the vehicle seizure order was made;

(ii) any other person from whose possession the vehicle was taken;

(iii) the relevant fines enforcement officer; and

(b) the diet to the applicant.

Review of actions of fines enforcement officer

20.9D.—(1) An application for review under section 226H of the Act of 1995 (review of actions of FEO)(c) shall be in Form 20.9D.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) it shall intimate—

(a) the application and the diet to the relevant fines enforcement officer; and

(b) the diet to the applicant.”.

(2) After Form 20.9-C in the appendix to the Rules insert Forms 20.9A, 20.9B-A, 20.9B-B, 20.9C and 20.9D set out in the Schedule to this Act of Adjournal.

(a) Section 226F was inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(b) Section 226D was inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(c) Section 226H was inserted by section 55 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

Fixed penalty or compensation conditional offer by procurator fiscal

6.—(1) After Chapter 52 of the Rules (investigation of revenue and customs offences)(a) insert—

“CHAPTER 53

**REVIEW OF FIXED PENALTY OR COMPENSATION CONDITIONAL
OFFERS BY PROCURATOR FISCAL**

**Review by court of fixed penalty or compensation conditional offers by procurator
fiscal**

53.1.—(1) An application for review under section 302C(6) of the Act of 1995 (recall of fixed penalty or compensation offer)(b) shall be in Form 53.1.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) it shall—

(a) send a copy of the application to the prosecutor; and

(b) intimate the diet to the parties.”.

(2) After Form 52.4-B in the appendix to the Rules(c) insert Form 53.1 set out in the Schedule to this Act of Adjournal.

A C Hamilton
Lord Justice General
I.P.D.

Edinburgh
20th February 2008

(a) Chapter 52 was inserted by S.S.I. 2007/495.

(b) Section 302C was inserted by section 50 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(c) Form 52.4-B was inserted by S.S.I. 2007/495.

SCHEDULE

Paragraphs 3(2), 4(2),
5(2) and 6(2)

FORM 17.A1

Rule 17.A1

Form of application for extension of period of detention under section 147 of the Criminal Procedure (Scotland) Act 1995

UNTO THE HONOURABLE SHERIFF OF (*name of sheriffdom*) AT (*place*)

[*or* UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*)
AT (*place*)]

APPLICATION [*or* JOINT APPLICATION]

by

THE PROCURATOR FISCAL, (*place*)

[*and/or* [A.B.] (*address*) [*or* Prisoner in the Prison of (*place*)]]

HUMBLY SHEWETH:

1. That [A.B.] has been charged on a summary complaint at the instance of the procurator fiscal, (*place*) with the offence of (*specify*).
2. (*Here state grounds for application*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP [*or* THE COURT]–

- (a) (*here state order/decision sought*); or
- (b) to fix a diet for the hearing of this application and to order intimation of this application and the diet to all parties; or
- (c) to do otherwise as to your Lordship [*or* the Court] shall seem proper.

IN RESPECT WHEREOF

(*Signed*)

Prosecutor

[*and/or* Legal representative of [A.B.]]

(*Name, address, e-mail address and telephone number*)

(*Place and date*)

**Form of application for warrant for the apprehension of a witness under section 156 or 156C
of the Criminal Procedure (Scotland) Act 1995**

UNTO THE HONOURABLE SHERIFF OF (*name of sheriffdom*) AT (*place*)

[*or* UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*)
AT (*place*)]

APPLICATION

by

THE PROCURATOR FISCAL, (*place*)

[*or* [A.B.] (*address*) [*or* Prisoner in the Prison of (*place*)]]

HUMBLY SHEWETH:

1. That [A.B.] has been charged on a summary complaint at the instance of the Procurator Fiscal, (*place*) with the offence of (*specify*).
2. (*Here state grounds for application*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP [*or* THE COURT]–

- (a) to grant a warrant for apprehension of [C.D.] (*address*);
- (b) to fix a diet for the hearing of this application; or
- (c) to do otherwise as to your Lordship [*or* the Court] shall seem proper.

IN RESPECT WHEREOF

(*Signed*)

Prosecutor

[*or* Legal representative of [A.B.]]

(*Name, address, e-mail address and telephone number*)

(*Place and date*)

Form of warrant for the apprehension of a witness under section 156(1) of the Criminal Procedure (Scotland) Act 1995

(Place and date). The Sheriff [*or* Justice of the Peace] at *(place)* grants a warrant under section 156(1) of the Criminal Procedure (Scotland) Act 1995 in the case of the Procurator Fiscal, *(place)* against [A.B.] for the apprehension of [C.D.], *(date of birth)*, *(address)* (“the witness”).

By virtue of section 156(7) of that Act, this warrant implies warrant to officers of law—

- (a) to search for and apprehend the witness in respect of whom it is issued;
- (b) to bring the witness before the court;
- (c) in the meantime, to detain the witness in a police station, police cell or other convenient place; and
- (d) so far as necessary for the execution of the warrant, to break open shut and lockfast places.

(Signed)

Sheriff [*or* Justice of the Peace]

(Court name, address, email address and telephone number)

Note of officers of law: contact the clerk of court on apprehension of witness.

Form of application under section 156C(2)(a) of the Criminal Procedure (Scotland) Act 1995UNTO THE HONOURABLE SHERIFF OF *(name of sheriffdom)* AT *(place)*[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF *(name of sheriffdom)*
AT *(place)*]

APPLICATION

under section 156C of the Criminal Procedure (Scotland) Act 1995

for

REVIEW OF AN ORDER

by

[A.B.] Witness, *(address)*

APPLICANT

HUMBLY SHEWETH:

1. That [A.B.] is a witness in the case of the Procurator Fiscal against [C.D.].
2. That an order under section 156A(1)(b) of the Criminal Procedure (Scotland) Act 1995 was made against [A.B.] on *(date)*.
3. *(Here state grounds for application)*.

MAY IT THEREFORE PLEASE YOUR LORDSHIP [or THE COURT]–

- (a) (here state order sought); or
- (b) to do otherwise as to your Lordship [or the Court] shall seem proper.

IN RESPECT WHEREOF

(Signed)

[A.B.] [or Legal representative of [A.B.]

*(Name, address, e-mail address and telephone number)**(Place and date)*

**Form of citation of witness under section 156C(5)(b) of the Criminal Procedure (Scotland)
Act 1995**

IN THE SHERIFF [*or* JUSTICE OF THE PEACE] COURT AT (*place*)

CITATION

To: (*name and address of witness*)

Date of citation: (*date of citation or, if citation by post, the day after the date of posting*)

YOU ARE A WITNESS FOR THE PROSECUTION [*OR* DEFENCE] IN THE CRIMINAL
CASE AGAINST (*NAME*).

A warrant was issued for your apprehension on (*date*) and by order of the court of (*date*) you were
released on bail.

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the Sheriff [*or* Justice of the Peace]
Court at (*address*) in connection with an application for review of the above order of the court.

**IF YOU DO NOT ATTEND COURT WITHOUT A REASONABLE EXCUSE THE
COURT MAY ORDER THAT YOU BE BROUGHT BEFORE THE COURT AND
PUNISHED.**

(*Signed*)

Clerk of Court

Form of note of appeal under section 156D(1) of the Criminal Procedure (Scotland) Act 1995

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE
CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

NOTE OF APPEAL

by

THE PROCURATOR FISCAL (*place*)

[*or* [A.B.] (*address*) [*or* Prisoner in the Prison of (*place*)]]

[*or* [C.D.] Witness, (*address*)]

HUMBLY SHEWETH:

1. That on (*date*) the Sheriff [*or* Justices] at (*place*) made the following order under section 156A of the Criminal Procedure (Scotland) Act 1995:–

(*specify*)

2. That the Procurator Fiscal [*or* A.B. *or* C.D.] appeals against that decision on the following grounds:–

(*specify*)

MAY IT THEREFORE PLEASE YOUR LORDSHIPS–

- (a) (here state order sought); or
- (b) to do otherwise as to your Lordships shall seem proper.

IN RESPECT WHEREOF

(*Signed*)

Prosecutor

[*or* [A.B.], [*or* Legal representative of [A.B.]]

[*or* [C.D.] [*or* Legal representative of [C.D.]]

(*Name, address, e-mail address and telephone number*)

(*Place and date*)

NAME AND ADDRESS OF OFFENDER

FORM 29.9A

Rule 20.9A

**Form of order for enforcement of fine under section 226B of the Criminal Procedure
(Scotland) Act 1995**

SCS reference:

Account reference:

PF reference no:

SCRO no:

ENFORCEMENT ORDER

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

Offence and relevant penalty details:

THE COURT,

* granting time to pay [*or further time to pay*] the above penalty

* noting the offender to have accepted or to be deemed to have accepted a fixed penalty offer made under section 302(1) [*or a compensation offer made under section 302A(1)*] of the Criminal Procedure (Scotland) Act 1995 and not having made payment

* noting the offender to be liable to pay a fixed penalty notice given under section 54 [*or section 62*] of the Road Traffic Act 1988 [*or section 129 of the Antisocial Behaviour etc. (Scotland) Act 2004*] and not having made payment

* noting that a fine that has been imposed by a court on England and Wales and in relation to which a collection order (within the meaning of Part 4 of Schedule 5 to the Courts Act 2003) has been made, has been transferred to this court

ORDERS that the above penalty [*or penalties*] be paid

* by (*specify date*)

* by instalments of (*specify amount*) per (*specify interval of time*) starting on (*specify date*)

* (*specify other arrangement*)

(* delete whatever is not applicable)

AND grants warrant for all lawful execution hereon.

The effect of the order is to require payment in accordance with the arrangements in the order.

The contact details of the Fines Enforcement Officer (FEO) responsible for securing compliance with this order are as follows:

Court Address:

Telephone number:

E-mail address:

Office hours:

While this order is in force, the FEO may:

1. Request the court to apply for a deduction from benefits order.
2. Make an earnings arrestment order.
3. Arrest funds belonging to the offender in banks or other financial institutions.
4. Order the seizure of a motor vehicle belonging to the offender.
5. Refer the offender back to court.

When the account is in default, the FEO may apply one or more of these sanctions without notice. The offender may apply to the FEO to vary the arrangements for repayment specified in this order. The offender may apply to the court for review of any variation of the enforcement order or any refusal of an application for variation of the arrangements for repayment specified in this order.

(Signed)

Clerk of Court

NOTE

The FEO, whose contact details are printed above, is responsible for making sure that you keep to the conditions of this order. The FEO will also give you advice and information about payment.

If you have any questions about this financial penalty, if you have any difficulties with the proposed payment, or if you wish any advice about payment, you should contact the FEO immediately. Do not wait until you are in arrears with payment as this may result in the alternative sanctions mentioned earlier being used.

You can arrange to make contact with a FEO through any sheriff court or justice of the peace court in Scotland. The FEO can offer advice and information about payment even if the financial penalty was not imposed at the court where he or she is based. You should have this order to hand when contacting the court.

**Form of application for order for the sale or disposal of a vehicle under section 226D(6) of
the Criminal Procedure (Scotland) Act 1995**

SCS Account Ref:

UNTO THE HONOURABLE SHERIFF OF *(name of sheriffdom)* AT *(place)*

[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF *(name of sheriffdom)*
AT *(place)*]

APPLICATION

by

[A.B.] (Fines Enforcement Officer)

HUMBLY SHEWETH:

1. That an enforcement order [or orders] was [or were] made in respect of *(name and address of offender)* on *(for each enforcement order specify date(s) made and specify court and place where made and annex copies of each order)*.
2. That for the purpose of obtaining the amount of a relevant penalty [or penalties] which has [or have] not been paid in accordance with the said enforcement order[s], a vehicle seizure order was carried out on *(date)* in respect of vehicle registration number *(specify number)*.
3. That the period of *(specify period set down in regulations made under section 226D(12) of the Criminal Procedure (Scotland) Act 1995)* has expired and the sum of *(specify sum)* of the relevant penalty [or penalties] remains unpaid.

MAY IT THEREFORE PLEASE YOUR LORDSHIP [or THE COURT]–

- (a) to make an order for sale [or disposal] of the above vehicle under section 226D(6) of the Criminal Procedure (Scotland) Act 1995 *(here set out terms of order sought with reference to subsection (6) of section 226D)*;
- (b) to fix a diet for the hearing of this application; or
- (c) to do otherwise as to your Lordship [or the Court] shall seem proper.

IN RESPECT WHEREOF

(Signed)

Fines Enforcement Officer

(Place and date)

Form of order for sale or disposal of a vehicle under section 226D(6) of the Criminal Procedure (Scotland) Act 1995

SCS Account Ref:

SALE [*or* DISPOSAL] OF VEHICLE ORDER

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

Amount of each relevant penalty and date each imposed:

Unpaid balance[s]:

Vehicle Registration Number:

Registered Owner:

Date vehicle seized:

THE COURT, having considered the application by (*specify name*), Fines Enforcement Officer, for an order to sell the above vehicle under section 226(D) of the Criminal Procedure (Scotland) Act 1995;

ORDERS (*here set out terms of order with reference to paragraphs (a) to (d) of section 226D(6)*).

(*Signed*)

Sheriff [*or* Justice of the Peace]

Copy: Offender

**Form of application by third party under section 226D(7)(b)(ii) of the Criminal Procedure
(Scotland) Act 1995**

UNTO THE HONOURABLE SHERIFF OF *(name of sheriffdom)* AT *(place)*

APPLICATION

by

[A.B.] *(address)*

APPLICANT

HUMBLY SHEWETH:

1. That a vehicle seizure order was made against *(name of offender)* on *(date)* in respect of vehicle registration number *(specify number)*.
2. That the vehicle seizure order was carried out on *(date)* at *(address where vehicle was located)*.
3. That the applicant is the owner of the vehicle in relation to which the vehicle seizure order was made. *(Here provide details and attach any proof of ownership)*.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) (here state the terms of the order sought);
- (b) to fix a diet for the hearing of this application; or
- (c) to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

(Signed)

[A.B.]

[or, Legal representative for [A.B.]]

(Name, address, e-mail address and telephone number)

(Place and date)

**Form of application for review of decision of fines enforcement officer under section 226H of
the Criminal Procedure (Scotland) Act 1995**

SCS Account Ref:

UNTO THE HONOURABLE SHERIFF OF *(name of sheriffdom)* AT *(place)*

[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF *(name of sheriffdom)*
AT *(place)*]

APPLICATION

by

[A.B.] *(address)* [or prisoner in the Prison of *(place)*]

APPLICANT

HUMBLY SHEWETH:

1. That an enforcement order [or orders] was [or were] made in respect of *(name and address of offender)* on *(for each enforcement order specify date(s) made and specify court and place where made and attach copies where possible)*.

2. That—

* the enforcement order[s] was [or were] varied by [C.D.], fines enforcement officer, on *(specify date and terms of each variation made)*.

* [A.B.] applied to [C.D.] for a variation of the terms of the enforcement order[s] on *(date)* and this was refused on *(date)*.

* notification of a vehicle seizure order being made was given on *(date)*.

(* delete whatever is not applicable)

3. That the applicant seeks review of the variation[s] of [or refusal[s] to vary] the enforcement order[s] [or of the vehicle seizure order] for the following reasons:— *(here state reasons)*.

MAY IT PLEASE YOUR LORDSHIP [or THE COURT]—

- (a) (here state the terms of the order sought);
- (b) to fix a diet for the hearing of this application; or
- (c) to do otherwise as to your Lordship [or the Court] shall seem proper.

IN RESPECT WHEREOF

(Signed)

[A.B.]

[or Legal representative of [A.B.]]

(Name, address, e-mail address and telephone number)

(place and date)

**Form of application for review of decision of clerk of court under section 203C(6) of the
Criminal Procedure (Scotland) Act 1995**

SCS Account Ref:

PF Reference No:

UNTO THE HONOURABLE SHERIFF OF (*name of sheriffdom*) AT (*place*)

[*or* UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*)
AT (*place*)]

APPLICATION

by

[A.B.] (*address*)

APPLICANT

HUMBLY SHEWETH:

1. That the applicant requested recall of a fixed penalty [*or* compensation] conditional offer by the procurator fiscal dated (*date*) (copy attached) that he [*or* she] was deemed to have accepted.
2. That the request was refused by the clerk of court on (*date*).
3. (*Here state grounds for application for review of clerk of court's decision*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP [*or* THE COURT]—

- (a) to quash the decision of the clerk of court;
- (b) to fix a diet for the hearing of this application; or
- (c) to do otherwise as to your Lordship [*or* the Court] shall seem proper.

IN RESPECT WHEREOF

(*Signed*)

[A.B.]

[*or* Legal representative of [A.B.]]

(*Name, address, e-mail address and telephone number*)

EXPLANATORY NOTE

(This note is not part of the Act of Adjournal)

This Act of Adjournal amends the Act of Adjournal (Criminal Procedure Rules) 1996 in consequence of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

Paragraph 2 makes amendments in consequence of the establishment of justice of the peace courts. It replaces references to district courts with references to justice of the peace courts and provides that, while district courts are still in existence, references to justice of the peace courts are to be read as references to district courts, where relevant.

Paragraph 3 inserts new rule 17.A1 providing a form for a joint or individual written applications for extension of the period of detention under section 147 of the Criminal Procedure (Scotland) Act 1995 (“1995 Act”) and providing that such applications should be intimated to the other parties. Applications may also be made orally in court.

Paragraph 4 inserts new rules for dealing with obstructive witnesses:

- (a) rule 18.3 replaces the existing rule and provides a form of application for a warrant to apprehend obstructive witnesses and a form of warrant;
- (b) rule 18.3A(1) provides a form of application for review by a witness liberated on bail under a court order made under section 156A of the 1995 Act;
- (c) rule 18.3B provides a form of citation of a witness under section 156C(5);
- (d) rule 18.3C provides a form of appeal to the High Court by a witness, prosecutor or accused against an order made under section 156A of the 1995 Act.

Paragraph 5 inserts new rules relating to fines enforcement:

- (a) rule 20.9A provides a form of enforcement order, which includes warrant for civil diligence;
- (b) rule 20.9B makes provision for the form of application for an order for sale or disposal of a vehicle and the form of any objections by the offender;
- (c) rule 20.9C makes provision for an application to the sheriff by a person claiming to own a vehicle that is subject to a vehicle seizure order under section 226D of the 1995 Act;
- (d) rule 20.9D makes provision for an offender to make an application for review of certain actions of a fines enforcement officer.

Paragraph 6 inserts a new Chapter 53 into the Rules. Rule 53.1 makes provision for an application for review of the decision of the clerk of court in relation to a request by an offender to recall a fixed penalty or compensation offer that was deemed to be accepted.

£3.50

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