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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 345**

**Act of Adjournal (Criminal Procedure Rules  
Amendment No. 5) (Miscellaneous) 2009**

**Citation and commencement, etc.**

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 5) (Miscellaneous) 2009 and comes into force on 27th October 2009.

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

**Crime (International Co-operation) Act 2003: overseas freezing orders**

2.—(1) After rule 36.9 of the Criminal Procedure Rules 1996 (proceedings before a nominated court)(1) insert—

**“Time period for consideration of overseas freezing order**

**36.9A.**—(1) This rule applies where the Lord Advocate has nominated a sheriff to give effect to an overseas freezing order under section 21(2) of the Act of 2003 (considering the overseas freezing order).

(2) Subject to paragraph (3), the sheriff shall consider the order no later than the day after receipt of the order.

(3) The sheriff may, exceptionally, consider the order later than the period prescribed in paragraph (2) but shall do so no later than 5 days after receipt of the order.

(4) Where the day mentioned in paragraph (2) or the last day of the period mentioned in paragraph (3) falls on a Saturday, Sunday or court holiday, such period shall extend to and include the next day which is not a Saturday, Sunday or court holiday.

(5) In calculating the period mentioned in paragraph (3), any Saturday, Sunday or court holiday that falls within that period shall be disregarded.

**Form of warrant for seizure and retention of evidence**

**36.9B.** A warrant under section 22(1) of the Act of 2003 (giving effect to the overseas freezing order) shall be in Form 36.9B.

**Application for release of evidence**

**36.9C.** An application under section 25(1) of the Act of 2003 (release of evidence held under overseas freezing order) shall be in Form 36.9C.”.

(2) After Form 36.8D in the appendix to the Criminal Procedure Rules 1996(2) insert Forms 36.9B and 36.9C set out in Part 1 of the Schedule to this Act of Adjournal.

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(1) 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. 2009/322).

(2) Form 36.8-D was inserted by S.S.I. 2004/195.

### **Confiscation proceedings**

3. In Form 37AA.5D-B in the appendix to the Criminal Procedure Rules 1996 (form of timetable order)(3)—

(a) in paragraph 1 for “is to take place on (*date*)” substitute “is to take place no later than (*date*)”;

(b) after paragraph 3 insert—

“4. The hearing to check preparation before the determination hearing will take place on (*date*).

5. The determination hearing will take place on (*date*).”.

### **Mutual recognition of criminal financial penalties**

4.—(1) After Chapter 53 of the Criminal Procedure Rules 1996 (review of fixed penalty or compensation offers by procurator fiscal)(4) insert—

## “CHAPTER 54

### MUTUAL RECOGNITION OF CRIMINAL FINANCIAL PENALTIES

#### **Form of certificate**

54.1. A certificate issued under section 223A(1) of the Act of 1995 (recognition of financial penalties: requests to other member States) shall be in Form 54.1.”.

(2) After Form 53.1 in the appendix to the Criminal Procedure Rules 1996(5) insert Form 54.1 set out in Part 2 of the Schedule to this Act of Adjournal.

Edinburgh  
6th October 2009

*A.C. HAMILTON*  
Lord Justice General  
I.P.D.

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(3) Form 37AA.5D-B was inserted by [S.S.I. 2009/244](#).

(4) Chapter 53 was inserted by [S.S.I. 2008/61](#).

(5) Form 53.1 was inserted by [S.S.I. 2008/61](#).