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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 194**

**Act of Adjournal (Criminal Procedure Rules  
Amendment No. 3) (Miscellaneous) 2011**

**Citation, commencement etc.**

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 3) (Miscellaneous) 2011.

(2) It comes into force on 28th March 2011.

(3) A certified copy of this Act of Adjournal is to be inserted in the Books of Adjournal.

(4) Unless the context requires otherwise, in this Act of Adjournal a reference to a numbered chapter, provision or form is to the chapter, provision or form of that number in the Criminal Procedure Rules 1996<sup>(1)</sup>.

**Prosecution of organisations**

2.—(1) In rule 8.2(5) (citation of accused and witnesses)<sup>(2)</sup> for “a body corporate” substitute “an organisation”.

(2) In Form 8.2-G and Form 8.2-H for the words “body corporate”, wherever they appear, substitute “organisation”.

**Transfer of justice of the peace court cases**

3.—(1) In rule 17A.1 (transfer of summary proceedings)<sup>(3)</sup>—

(a) in paragraph (1)(a) after “section 137A(1)” insert “or section 137CA(2)<sup>(4)</sup>”;

(b) in paragraph (1)(b) after “section 137B(1)” insert “or section 137CB(2)”;

(c) in paragraph (1)(c) after “section 137B(1A)” insert “or section 137CB(4)”;

(d) in paragraph (1)(d) after “section 137B(1C)” insert “or section 137CB(6)”;

(e) in paragraph (1)(e) after “section 137B(3)” insert “or section 137CB(9)”;

(f) in paragraph (1)(f) after “section 137B(4)” insert “or section 137CB(10)”;

(g) in paragraph (1)(g) after “section 137C(1)” insert “or section 137CC(2)”.

(2) In the appendix, for Forms 17A.1-A, 17A.1-B, 17A.1-C, 17A.1-D, 17A.1-E, 17A.1-F and 17A.1-G substitute respectively Forms 17A.1-A, 17A.1-B, 17A.1-C, 17A.1-D, 17A.1-E, 17A.1-F and 17A.1-G set out in Part 1 of the Schedule to this Act of Adjournal.

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<sup>(1)</sup> 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. 2011/167).

<sup>(2)</sup> Rule 8.2 substituted by S.S.I. 2005/44, last amended by S.S.I. 2005/188.

<sup>(3)</sup> Rule 17A.1 was inserted by S.S.I. 2009/144.

<sup>(4)</sup> Sections 137CA to 137CC inserted by section 61 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

## Witness anonymity orders

4.—(1) After Chapter 22 (evidence of vulnerable witnesses)(5) insert—

### “CHAPTER 22A WITNESS ANONYMITY ORDERS

#### **Application for witness anonymity order**

**22A.1.** An application under section 271P of the Act of 1995(6) for a witness anonymity order shall be in Form 22A.1.

#### **Notice of application in summary proceedings**

**22A.2.** Notice for the purpose of section 271Q(2) of the Act of 1995 shall be in Form 22A.2.

#### **Discharge and variation of witness anonymity order**

**22A.3.** An application under section 271U(3)(a) of the Act of 1995 to discharge or vary a witness anonymity order shall be made—

- (a) by motion, at any hearing; or
- (b) in Form 22A.3, at any other time.

#### **Appeals**

**22A.4.—**(1) Any appeal mentioned in section 271V of the Act of 1995 must be taken not later than seven days after the decision.

(2) The appeal shall thereafter be treated procedurally, so far as possible—

- (a) in solemn proceedings, as if it were an appeal under section 74(1) of the Act of 1995;
- (b) in summary proceedings, as if it were an appeal under section 174(1) of the Act of 1995.”.

(2) In the appendix after Form 22.15 insert the forms set out in Part 2 of the Schedule to this Act of Adjournal.

## Extradition

5. After rule 34.1 (interpretation of this Chapter)(7) insert—

#### **“Provisional arrest**

**34.1A.—**(1) Notice of an application under section 6(3A) of the Act of 2003(8) must be given to the arrested person by giving him or her, or his or her solicitor, a letter to that effect.

(2) Such notice must be given before the hearing at which the application is to be made.”.

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(5) Chapter 22 substituted by [S.S.I. 2005/188](#), last amended by [S.S.I. 2006/76](#).

(6) Sections 271N to 271Z inserted by section 90 of the Criminal Justice and Licensing (Scotland) Act 2010 ([asp 13](#)).

(7) Chapter 34 was substituted by [S.S.I. 2004/346](#).

(8) Section 6(3A) was substituted by section 77 of the Policing and Crime Act 2009 ([c.26](#)).

## **Reporting restrictions, regulation of investigatory powers and control of dogs**

6.—(1) After Chapter 55 (recovery orders under section 27K(3) of the Civic Government (Scotland) Act 1982)(9) insert the following chapters—

### **“CHAPTER 56**

#### **REPORTING RESTRICTIONS UNDER THE CONTEMPT OF COURT ACT 1981**

##### **Interpretation**

**56.1.** In this Chapter “the 1981 Act” means the Contempt of Court Act 1981(10).

##### **Notification of reporting restrictions etc.**

**56.2.—**(1) Paragraph (2) applies where a court makes an order under section 4(2) of the 1981 Act.

- (2) The clerk shall immediately arrange—
- (a) for a copy of the order to be sent to those persons who have asked to see any such orders made in the Scottish courts as they are made and whose names are on the list kept by the Lord Justice General for that purpose;
  - (b) for the publication of the making of the order on the website used to provide official information about the Scottish courts.

##### **Applications for variation or revocation**

**56.3.—**(1) A person aggrieved by the terms of an order made under section 4(2) of the 1981 Act may apply to the court that made the order for its variation or revocation.

- (2) An application shall be in Form 56.3.
- (3) On an application being lodged the court shall—
- (a) appoint a hearing on the application;
  - (b) intimate the date and time of the hearing, together with a copy of the application, to the parties to the proceedings.
- (4) The hearing shall—
- (a) unless there are exceptional circumstances or a later date is requested by the applicant, take place within 48 hours of the application being lodged;
  - (b) so far as reasonably practicable, be before the judge who made the order.
- (5) The decision of the judge is final.

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(9) Chapter 55 was inserted by S.S.I. 2010/184.  
(10) 1981 c.49.

## CHAPTER 57

### REGULATION OF INVESTIGATORY POWERS ACT 2000

#### Interpretation

**57.1.** In this Chapter “the 2000 Act” means the Regulation of Investigatory Powers Act 2000<sup>(11)</sup>.

#### Disclosed information: hearing

**57.2.**—(1) This rule applies where a prosecutor of a case has had disclosed to him or her information under section 18(7)(a) of the 2000 Act and considers it appropriate to invite the judge to order disclosure in terms of section 18(7)(b) of the 2000 Act.

(2) The prosecutor may request a hearing before the judge.

(3) A request for a hearing under paragraph (2)—

(a) may be made at any time, either verbally or in writing;

(b) shall be to either the Clerk of Justiciary or the clerk of court, whoever being more appropriate in the circumstances.

(4) The hearing shall be—

(a) in court;

(b) in private.

(5) In paragraph (4), “private” means outwith the presence of any person (including, in a trial, the accused, his representatives and the jury) except the judge, the prosecutor and any other person whose presence the judge considers necessary for the proper determination of the matter.

(6) The hearing shall be recorded by mechanical means as if it were a trial in solemn proceedings.

(7) Paragraph (8) applies where the prosecutor indicates that information disclosed during the hearing has a particular status under any scheme operated by the United Kingdom Government for the protection of sensitive information.

(8) The record of the hearing and any retained documents shall be stored by the court in accordance with the security measures which the scheme stipulates for information of that status.

## CHAPTER 58

### CONTROL OF DOGS (SCOTLAND) ACT 2010

#### Interpretation

**58.1.** In this Chapter “the 2010 Act” means the Control of Dogs (Scotland) Act 2010<sup>(12)</sup>.

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<sup>(11)</sup> 2000 c.23.

<sup>(12)</sup> 2010 asp 9.

### **Application for discharge of disqualification**

**58.2.**—(1) Paragraph (2) applies where a person has been disqualified by virtue of section 5(2)(a) of the 2010 Act.

(2) An application for the discharge of the disqualification under section 11(3) of the 2010 Act shall be made by petition in Form 58.2.

### **Appeal to the High Court**

**58.3.** An appeal to the High Court under section 11(4) of the 2010 Act shall be made by lodging a note of appeal in Form 58.3.

### **Hearing and intimation**

**58.4.** On an application or appeal being lodged the court shall—

- (a) appoint a hearing on the application or appeal;
- (b) make an order for service of the application, or appeal, with the date and time of the hearing on all parties.”.

(2) In the appendix, at the end insert the forms set out in Part 3 of the Schedule to this Act of Adjournal.

Edinburgh  
10th March 2011

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