

2013 No. 198

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules Amendment No. 3)
(Miscellaneous) 2013**

<i>Made</i> - - - -	<i>13th June 2013</i>
<i>Laid before the Scottish Parliament</i>	<i>14th June 2013</i>
<i>Coming into force</i> - -	<i>24th June 2013</i>

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 section 305 of the Criminal Procedure (Scotland) Act 1995(a), and of all other powers enabling them in that behalf do hereby enact and declare:

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 3) (Miscellaneous) 2013.

(2) It comes into force on 24th June 2013.

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

(4) The Criminal Procedure Rules 1996(b) are amended in accordance with the following paragraphs.

Reduction of disqualification period for drink-drive offenders

2.—(1) In rule 20.19 (reduction of disqualification period for drink-drive offenders)—

- (a) for each reference to “course organiser” and “course organiser’s”, substitute respectively “course provider” and “course provider’s”;
- (b) in subparagraph (1) for each reference to “section 34C(2)”, substitute “section 34C(3)”;
- (c) in subparagraph (1) for the first reference to “date specified” substitute “relevant date”;
- (d) in subparagraphs (2)(c) and (3) for “date specified” substitute “relevant date”;
- (e) in subparagraph (3) for “section 34B(7)”, substitute “section 34B(8)”;

(a) 1995 c.46. Section 305 is to be read in accordance with paragraph 37 of Schedule 6 to the Scotland Act 1998 (c.46).

(b) 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. 2013/196.

(f) in subparagraph (4) for “section 34B(6) or (7)”, substitute “section 34B(6) or (8)”.

(2) In the appendix—

(a) in Form 20.19-A (Form of application under section 34B(6) of the Road Traffic Offenders Act 1988)—

(i) for each reference to “course organiser” and “course organiser’s”, substitute respectively “course provider” and “course provider’s”;

(ii) for each reference to “date specified”, substitute “relevant date specified”.

(b) in Form 20.19-B (Form of application under section 34B(7) of the Road Traffic Offenders Act 1988)—

(i) for “section 34B(7)” substitute “section 34B(8)”;

(ii) for each reference to “course organiser” substitute “course provider”;

(iii) for each reference to “date specified” substitute “relevant date specified”;

(iv) the title of the Form becomes “Form of application under section 34B(8) of the Road Traffic Offenders Act 1988”.

Compatibility issues and devolution issues

3.—(1) In rule 40.12 (orders pending determination of compatibility issues or devolution issues)(a)—

(a) for paragraph (1) substitute—

“(1) Where a court makes a reference mentioned in rule 40.10 or rule 40.11 it may make such orders as it considers just and equitable in the circumstances pending the determination of the compatibility issue or devolution issue.

(1A) Where an appeal under paragraph 13(a) of Schedule 6 is taken, the High Court of Justiciary may make such orders as it considers just and equitable in the circumstances pending the determination of that appeal.

(1B) Without prejudice to the generality of paragraphs (1) and (1A), orders made under those paragraphs may include—

(a) an order postponing any diet, including a trial diet, fixed in the case;

(b) such orders as the court considers appropriate in relation to bail;

(c) subject to paragraph (2), an order extending the period within which any step requires to be taken or event to have occurred.”.

(b) in paragraph (2), omit the words “under paragraph (1)(c)”.

(2) In rule 40.13(1)(b)(b) (procedure on receipt of determination of compatibility issue or devolution issue), after “rule 40.11” omit the remainder of the sentence.

Written record of state of preparation

4.—(1) In the appendix, Form 9A.4 (Form of written record of state of preparation)(c) is amended in accordance with the following subparagraphs.

(2) In Schedule 1 (prosecutor), in question 11 (availability of witnesses) for “paragraph 9” substitute “paragraph 10”.

(3) In Schedule 2 (legal representative), in question 14 (availability of witness) for “paragraph 9” substitute “paragraph 13”.

(a) Rule 40.12 was inserted by S.S.I. 2013/72.

(b) Rule 40.13 was inserted by S.S.I. 2013/72.

(c) Form 9A.4 was inserted by S.S.I. 2005/44 and was substituted by S.S.I. 2013/72.

Television link evidence

5. In the appendix, in Form 23A.1-A (Form of petition for issue of letter of request under section 273(2) or 273A(2) of the Criminal Procedure (Scotland) Act 1995)(a)—

- (a) in paragraph 1, for “indicated” substitute “indicted”;
- (b) for paragraph 6 substitute—

“[6. That English is [not] the official language or one of the official languages of the said country or territory.]”

BRIAN GILL
Lord Justice General
I.P.D.

Edinburgh
13th June 2013

(a) Form 23A.1-A was inserted by S.S.I. 2004/195 and was substituted by S.S.I. 2013/72.

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996.

Paragraph 2 amends rule 20.19 and associated forms in consequence of the commencement of section 35 of the Road Safety Act 2006 by the Road Safety Act 2006 (Commencement No. 9 and Transitional Provisions) Order 2012.

Paragraph 3 amends Chapter 40 in two respects.

Paragraph 3(1) amends rule 40.12 (orders pending determination of compatibility issues or devolution issues) to extend its scope to appeals under paragraph 13 of Schedule 6 to the Supreme Court as well as references to the High Court and Supreme Court in relation to devolution issues and compatibility issues.

Paragraph 3(2) amends rule 40.13 to clarify that the procedure in that rule applies to all references determined by the Supreme Court.

Paragraph 4 amends Form 9A.4 in order to correct some minor typographical errors.

Paragraph 5 amends Form 23A.1-A to allow for the exclusion of the statement at paragraph 6 in cases in which evidence is to be given via television link from another part of the United Kingdom and to correct a typographical error.

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