
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 121

**Act of Adjournal (Criminal Procedure Rules
Amendment No. 2) (European Protection Orders) 2015**

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 2) (European Protection Orders) 2015.

(2) It comes into force on 1st April 2015.

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

Amendment of the Act of Adjournal (Criminal Procedure Rules) 1996

2.—(1) The Criminal Procedure Rules 1996(1) are amended in accordance with this paragraph.

(2) After Chapter 60 (Regulatory Reform (Scotland) Act 2014)(2), insert—

“CHAPTER 61

EUROPEAN PROTECTION ORDERS

Interpretation

61.1. In this Chapter words and expressions have the same meaning as that given by section 254A or section 254B(7) of the Act of 1995(3).

Information about European Protection Orders

61.2.—(1) Where a court makes a protection measure, it must—

- (a) where the protection measure is made before conviction, direct the prosecutor to inform the protected person under paragraph (2); or
- (b) otherwise, direct the clerk of court to inform the protected person under paragraph (2).

(2) A person is informed under this paragraph if—

- (a) informed of the possibility of applying for a European Protection Order if that person decides to reside or stay in another Member State of the European Union and of the basic conditions for making such a request; and
- (b) advised that an application for a European Protection Order should be made before leaving the United Kingdom.

(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. 2015/84).

(2) Chapter 60 was inserted by S.S.I. 2014/162.

(3) Section 254A to 254E were inserted by S.S.I. 2015/107.

Application for a European Protection Order

61.3.—(1) An application is to be made by minute in Form 61.3.

(2) An application which relates to a protection measure issued by a court in Scotland must be made to the court which issued that protection measure.

(3) The court must send to the competent authority of the issuing state an application which relates to a protection measure issued in the issuing state.

(4) An application may be granted by the court in chambers.

Issuing of a European Protection Order

61.4.—(1) A European Protection Order is to be issued in Form 61.4-A.

(2) Where the court refuses an application, it must send that decision to the protected person in Form 61.4-B.

(3) The court must arrange for the translation of a European Protection Order into the official language (or into one of the official languages) of the executing state.

Recognition of a European Protection Order

61.5.—(1) Where the sheriff has to inform the competent authority of the issuing state of refusal and the grounds of refusal under section 254C(5) of the Act of 1995, it must be done in Form 61.5-A.

(2) Where the sheriff has to inform the protected person of refusal and the grounds of refusal under section 254C(5) of the Act of 1995, it must be done in Form 61.5-B.

Implementation of a recognised European Protection Order

61.6.—(1) A non-harassment order made under section 245D of the Act of 1995 is to be made in Form 61.6-A.

(2) An order may be granted by the sheriff in chambers.

(3) Where the sheriff has to provide information under section 254D(6) of the Act of 1995, it must be done in Form 61.6-B.

(4) Where the court must notify the competent authority of the issuing state of a conviction under section 254D(8) of the Act of 1995, it must send that notification in Form 61.6-C.

(5) The court must arrange for the translation of a notification under paragraph (4) into the official language (or into one of the official languages) of the issuing state.

Modification and revocation of a non-harassment order

61.7.—(1) An application by an offender to modify or revoke a non-harassment order under section 254E (3) or (5) of the Act of 1995 is to be made in Form 61.7-A.

(2) Where the sheriff has to provide information under section 254E(6) of the Act of 1995, it must be done in Form 61.7-B.

Translation free of charge

61.8. Translation required under this Chapter must be provided free of charge.

Where competent authority not known

61.9.—(1) This rule applies where the court has to send information to the competent authority of an issuing state under rule 61.3(4), 61.5(1), 61.6(3) or (4) or 61.7(2), but that competent authority is not known to the court.

(2) The court must make all relevant inquiries to identify the competent authority, including via the contact points of the European Judicial Network referred to in the Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network⁽⁴⁾, the National Member of Eurojust or the National System for the coordination of Eurojust of the United Kingdom.”.

(3) In the appendix, after Form 60.4, insert the Forms set out in the Schedule to this Act of Adjournal.

Edinburgh
18th March 2015

Brian Gill
Lord Justice General
I.P.D.

⁽⁴⁾ O.J. L348, 24.12.2008, p. 130.