

SCHEDULE

Paragraph 2(3)

Form 61.3

Rule 61.3(1)

FORM OF A MINUTE UNDER SECTION 254B OF THE CRIMINAL
PROCEDURE (SCOTLAND) ACT 1995 FOR A EUROPEAN PROTECTION
ORDER

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

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

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

by

[A.B.] *(address)*

HUMBLY SHEWETH:

1. That the applicant is the subject of a protection measure issued on *(date)* by the High Court [or the Sheriff at *(place)*] [or the Justices at *(place)*].
2. That the applicant now resides [or stays] [or intends to reside [or stay]] at *(place)*.
3. That the applicant will be residing [or staying] in *(insert European Union member state)* permanently [or for an indefinite period] [or for a period of *(specify)*].

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [or THE COURT]:

to issue a European Protection Order in terms of section 254B of the Criminal Procedure (Scotland) Act 1995.

IN RESPECT WHEREOF

(Signed)

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

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

(Place and date)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.4–A

Rule 61.4(1)

FORM OF EUROPEAN PROTECTION ORDER

issued under

DIRECTIVE 2011/99/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF
13TH DECEMBER 2011 ON THE EUROPEAN PROTECTION ORDER

The information contained in this form is to be treated with appropriate confidentiality

Issuing State:

Executing State:

(a) Information regarding the protected person:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Addresses/residences

— in the issuing State:

— in the executing State:

— elsewhere:

Language(s) understood (if known):

Has the protected person been granted free legal aid in the Issuing State (if information is available without further enquiry)?

Yes.

No.

Unknown.

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Where the protected person is a minor or is legally incapacitated, information regarding the person's guardian or representative:

Surname:

Forename(s):

Maiden name or previous name, where applicable:

Sex:

Nationality:

Office/Address:

- (b) The protected person has decided to reside or already resides in the executing State, or has decided to stay or already stays in the executing State.

Date from which the protected person intends to reside or stay in the executing State (if known):

Period(s) of stay (if known):

- (c) Have any technical devices been provided to the protected person or to the person causing danger to enforce the protection measure:

Yes; please give a short summary of the devices used:

No.

- (d) Competent authority which issued the European protection order:

Official name:

Full address:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

Details of the person(s) to be contacted:

Surname:

Forename(s):

Position (title/grade):

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Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail (if any):

Languages that may be used for communication:

- (e) Identification of the protection measure on the basis of which the European protection order has been issued:

The protection measure was adopted on (date: DD-MM-YYYY)

The protection measure became enforceable on (date: DD-MM-YYYY)

File reference of the protection measure (if available):

Authority that adopted the protection measure:

- (f) Summary of the facts and description of the circumstances — including, where applicable, the classification of the offence — which have led to the imposition of the protection measure mentioned under (e) above:

- (g) Indications regarding the prohibition(s) or restriction(s) that have been imposed by the protection measure on the person causing danger:

— Nature of the prohibition(s) or restriction(s): (more than one box may be ticked):

a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;

— if you ticked this box, please indicate precisely which localities, places or defined areas the person causing danger is prohibited from entering:

a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means;

— if you ticked this box, please provide any relevant details:

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- a prohibition or regulation on approaching the protected person closer than a prescribed distance;
 - if you ticked this box, please indicate precisely the distance which the person causing danger has to observe in respect of the protected person:

- Please indicate the length of time during which the abovementioned prohibition(s) or restriction(s) are imposed on the person causing danger:

- Indication of the penalty (if any) in the event of the breach of the prohibition or restriction:

- (h) Information regarding the person causing danger on whom the prohibition(s) or restriction(s) mentioned under (g) have been imposed:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Addresses/residences:

— in the issuing State:

— in the executing State:

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— elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

— Type and number of the identity document(s) of the person (ID card, passport):

Has the person causing danger been granted free legal aid in the Issuing State (if information is available without further enquiry)?

- Yes.
- No.
- Unknown

(i) Other circumstances that could have an influence on the assessment of the danger that could affect the protected person (optional information):

(j) Other useful information (such as, where available and necessary, information on other States where protection measures have been previously adopted with respect to the same protected person):

(k) Please complete:

- a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA has already been transmitted to another Member State
 - if you ticked this box, please provide the contact details of the competent authority to whom the decision on supervision measures has been forwarded:

Signature of the authority issuing the European protection order and/or of its representative to confirm the accuracy of the content of the order:

Name:

Position (title/grade):

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Date:

File reference (if any):

(Where appropriate) Official stamp:

Form 61.4–B

Rule 61.4(2)

INTIMATION TO PROTECTED PERSON OF REFUSAL TO ISSUE A EUROPEAN PROTECTION ORDER

In the application of

[here insert name of protected person]

For a European Protection Order

[insert date]

To *[insert name and address of protected person]*

The High Court *[or the sheriff at (place)] [or the justices at (place)]* has *[or have]* REFUSED your request to issue a European protection order because

[here insert brief reasons].

These rules do not make provision for an appeal against this decision. If you wish to challenge this decision you are advised to take legal advice on any legal remedies which may be available to you.

Signed

Clerk of Court

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.5–A

Rule 61.5(1)

INTIMATION TO COMPETENT AUTHORITY OF REFUSAL TO RECOGNISE A EUROPEAN PROTECTION ORDER

In the application of

[here insert name of protected person]

For a European Protection Order

[insert date]

To *[insert name and address of competent authority including relevant reference number]*

The sheriff at *(place)* has REFUSED the request of *[insert name of protected person]* to recognise a European protection order because:

[here insert brief reasons].

Signed

Sheriff Clerk

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.5–B

Rule 61.5(2)

INTIMATION TO PROTECTED PERSON OF REFUSAL TO RECOGNISE A EUROPEAN PROTECTION ORDER

In the application of

[here insert name of protected person]

For a European Protection Order

[insert date]

To *[insert name and address of protected person]*

The sheriff at *[insert name of sheriff court]* has REFUSED your request to recognise a European protection order because:

[here insert brief reasons].

These rules do not make provision for an appeal against this decision. If you wish to challenge this decision you are advised to take legal advice on any legal remedies which may be available to you.

Signed

Sheriff Clerk

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Form 61.6–A

Rule 61.6(1)

FORM OF NON-HARASSMENT ORDER MADE UNDER SECTION 254D OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

NON-HARASSMENT ORDER

under section 254D of the Criminal Procedure (Scotland) Act 1995

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

THE COURT, having recognised a European Protection Order under section 254C of the Criminal Procedure (Scotland) Act 1995 [*here insert reference number*];

ORDERS that [for a period of (*specify period*) from the date of this order] [until further order] the offender shall (*specify conduct from which offender is to refrain*).

(Signed)

Clerk of Court

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.6–B

Rule 61.6(3)

FORM OF INFORMATION REGARDING A NON-HARASSMENT ORDER UNDER SECTION 254D OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

To: *(name and address of offender) [or (name and address of protected person) or (name and address of competent authority of issuing State)]*

Date:

TAKE NOTICE:

On *(date)* the sheriff at *(place)* made a non-harassment order under section 254D of the Criminal Procedure (Scotland) Act 1995.

Breach of this non-harassment order is an offence under section 234A(4) of the Criminal Procedure (Scotland) Act 1995.

Conviction of an offence under section 234A(4) of the Criminal Procedure (Scotland) Act 1995 as modified by section 254D(2) may attract the following penalties:

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both such imprisonment and such fine; and
- (b) on summary conviction, to imprisonment for a period not exceeding 3 months or to a fine not exceeding level 5 on the standard scale, or to both such imprisonment and such fine.

A constable may arrest without warrant any person the constable reasonably believes is committing or has committed breach of a non-harassment order. This power is without prejudice to any other power of arrest conferred by law.

(signed)

Clerk of Court

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.6–C

Rule 61.6(4)

NOTIFICATION OF A BREACH OF THE MEASURE TAKEN ON THE BASIS OF THE EUROPEAN PROTECTION ORDER

The information contained in this form is to be treated with appropriate confidentiality

(a) Details of the identity of the person causing danger:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(b) Details of the identity of the protected person:

Surname:

Forename(s):

Maiden name or previous name, where applicable:

Sex:

Date of birth:

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Place of birth:

Address:

Language(s) understood (if known):

(c) Details of the European protection order:

Order issued on:

File reference (if any):

Authority which issued the order:

Official name:

Address:

(d) Details of the authority responsible for the execution of the protection measure, if any, which was taken in the executing State in line with the European protection order:

Official name of the authority:

Name of the person to be contacted:

Position (title/grade):

Address:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail (if any):

Languages that may be used for communication;

(e) Breach of the prohibition(s) or restriction(s) imposed by the competent authorities of the executing State following recognition of the European protection order and/or other findings which could result in taking any subsequent decision:

The breach concerns the following prohibition(s) or restriction(s) (more than one box may be ticked):

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- a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;
- a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means;
- a prohibition or regulation on approaching the protected person closer than a prescribed distance;
- any other measure, corresponding to the protection measure at the basis of the European protection order, taken by the competent authorities of the executing State following recognition of the European protection order

Description of the breach(es) (place, date and specific circumstances):

In accordance with Article 11(2):

- measures taken in the executing State as a consequence of the breach:
- possible legal consequence of the breach in the executing State:

Other findings which could result in taking any subsequent decision

Description of the findings:

- (f) Details of the person to be contacted if additional information is to be obtained concerning the breach:

Surname:

Forename(s):

Address:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail:

Languages that may be used for communication:

Signature of the authority issuing the form and/or its representative, to confirm that the contents of the form are correct:

Name:

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Position (title/grade):

Date:

Official stamp (where applicable):

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Form 61.7–A

Rule 61.7(1)

FORM OF APPLICATION UNDER SECTION 254E OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

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

AT *(place)*

Application

by

(name of offender) (address)

APPLICANT

HUMBLY SHEWETH:

1. That a non-harassment order, a copy of which is annexed to this application, was made in respect of *(name of offender)* on *(date)* in the sheriff court at *(insert place)*.

2. That the applicant applies to the court in terms of section 254E of the Criminal Procedure (Scotland) Act 1995 to modify *(or revoke)* the order for the following reasons:

(statement of reasons)

MAY IT THEREFORE PLEASE YOUR LORDSHIP:

(a) to revoke the non-harassment order;

or

[(b) To modify the non-harassment order as follows:

(insert details of proposed modification)];

(c) to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

(Signed)

Offender

[*or* Solicitor for offender]

(address and telephone number of the solicitor)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 61.7–B

Rule 61.7(2)

FORM OF INFORMATION REGARDING MODIFICATION OR REVOCATION OF A NON-HARASSMENT ORDER UNDER SECTION 254D OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

In the application of

[here insert name of protected person]

For a European Protection Order

To: *(name and address of offender) [or (name and address of protected person) or (name and address of competent authority of issuing State)].*

Date:

TAKE NOTICE:

The sheriff at *(place)* has REVOKED *[or MODIFIED]* the non-harassment order made on *(date)* by the sheriff at *(place)* under section 254D of the Criminal Procedure (Scotland) Act 1995.

(If modified, insert brief details)

Signed

Sheriff Clerk