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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 245**

**Act of Adjournal (Criminal Procedure Rules 1996  
Amendment) (No. 4) (Sheriff Appeal Court) 2015**

**Amendment of the Criminal Procedure Rules 1996: miscellaneous**

- 4.—(1) The Criminal Procedure Rules 1996 are amended in accordance with this paragraph.
- (2) In rule 4.2 (attendance of accused at Crown bail appeals)—
- (a) in paragraph (2), for “Clerk of Justiciary” substitute “clerk of the appropriate Appeal Court”;
  - (b) after paragraph (2), insert—  
“**(3)** In this rule, “clerk of the appropriate Appeal Court” has the meaning given by section 32(11) of the Act of 1995(1).”.
- (3) In rule 7.9 (mental disorder: appeals)(2)—
- (a) in paragraph (3), for “Clerk of Justiciary” substitute “clerk of the appropriate Appeal Court”;
  - (b) after paragraph (3), insert—  
“**(4)** In this rule, “clerk of the appropriate Appeal Court” means—
    - (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary;
    - (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of the Sheriff Appeal Court.”.
- (4) In rule 17.1 (appeals against extension of period of detention)(3)—
- (a) in paragraph (1), for “High Court” substitute “Sheriff Appeal Court”;
  - (b) in each of paragraphs (3), (4), (4A) and (5), for “Clerk of Justiciary” in each place where it occurs substitute “Clerk of the Sheriff Appeal Court”.
- (5) In rule 27A.1 (recovery of documents: appeal against decision of sheriff)(4)—
- (a) in paragraph (1), for “Clerk of Justiciary” substitute “clerk of the appropriate Appeal Court”;
  - (b) after paragraph (3), insert—  
“**(4)** In this rule, “clerk of the appropriate Appeal Court” means—
    - (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary;
    - (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of the Sheriff Appeal Court.”.

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(1) Section 32(11) was inserted by section 122(8) of the Courts Reform (Scotland) Act 2013 ([asp 18](#)).

(2) Rule 7.9 was inserted by [S.S.I. 2007/276](#).

(3) Rule 17.1 was amended by [S.S.I. 2012/125](#).

(4) Rule 27A.1 was inserted by [S.S.I. 2007/511](#) and amended by [S.S.I. 2010/184](#).

- (6) In rule 29A.1 (service of bill or petition)(5)—
- (a) in each of paragraphs (1), (2) and (4), for “Clerk of Justiciary” substitute “clerk of the appropriate Appeal Court”;
  - (b) after paragraph (4), insert—
    - “(5) In this rule, “clerk of the appropriate Appeal Court” means—
      - (a) in a case where the bill or petition is presented to the High Court, the Clerk of Justiciary;
      - (b) in a case where the bill is presented to the Sheriff Appeal Court, the Clerk of the Sheriff Appeal Court.”.
- (7) After rule 31.3 (notice of references in summary proceedings), insert—

**“References in proceedings in the Sheriff Appeal Court**

- 31.3A.**—(1) Where a question is to be raised in the Sheriff Appeal Court in any proceedings, notice of intention to do so shall be given by the party raising the question.
- (2) Where such notice is given, a record of the notice shall be entered in the minute of proceedings.
  - (3) The court may hear parties on the question forthwith or may adjourn the case to a specified date for such hearing.
  - (4) After hearing parties, the court may determine the question or may decide that a preliminary ruling should be sought.
  - (5) Where the court determines the question, it shall then make such order in respect of further procedure as it thinks fit.”.
- (8) The heading of rule 31.4 (proceedings on appeal etc.) becomes “Proceedings on appeal etc. to the High Court”.
- (9) In rule 38 (applications for transfer under section 303A of the Act of 1995)(6), for “the High Court” substitute “the appropriate Appeal Court”.
- (10) In rule 56.3(4) (interim orders: representations)(7), after subparagraph (a) insert—
- “(aa) the office of the Sheriff Appeal Clerk is open for criminal court business, where the interim order was made by the Sheriff Appeal Court;”.
- (11) In rule 56.4(b) (notification of reporting restrictions)(8), for “Scottish Court Service” substitute “Scottish Courts and Tribunals Service”.
- (12) In rule 58.3 (Control of Dogs (Scotland) Act 2010: appeal to the High Court)(9)—
- (a) for “High Court” substitute “Sheriff Appeal Court”;
  - (b) the heading becomes “Appeal to the Sheriff Appeal Court”.

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(5) Rule 29A.1 was inserted by [S.S.I. 2009/144](#).  
(6) Rule 38 was inserted by [S.I. 1997/1834](#).  
(7) Rule 56.3 was substituted by [S.S.I. 2015/84](#).  
(8) Rule 56.4 was substituted by [S.S.I. 2015/84](#).  
(9) Rule 58.3 was inserted by [S.S.I. 2011/194](#).