

2015 No. 443

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules 1996 Amendment)
(No. 6) (Special Measures in the Justice of the Peace Court)
2015**

Made - - - - - *17th December 2015*

Laid before the Scottish Parliament *18th December 2015*

Coming into force - - - *23rd December 2015*

The High Court of Justiciary makes this Act of Adjournal under the powers conferred by section 305 of the Criminal Procedure (Scotland) Act 1995^(a) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No. 6) (Special Measures in the Justice of the Peace Court) 2015.

(2) It comes into force on 23rd December 2015.

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

Amendment of the Criminal Procedure Rules 1996

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

(2) For rule 22.9 (evidence of vulnerable witnesses: transfer of cases)^(c) substitute—

^(a) 1996 c. 46. Section 305(5) was amended by S.S.I. 2015/338, article 2.

^(b) The Criminal Procedure Rules 1996 are in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513, last amended by S.S.I. 2015/375).

^(c) Rule 22.9 was substituted by S.S.I. 2005/188.

“Transfer of cases

22.9. This rule applies where the sheriff or justice of the peace makes an order under—

- (a) section 271J(4) of the Act of 1995 (live television link: transfer of proceedings)(a);
or
- (b) section 271K(3) of the Act of 1995 (screens: transfer of proceedings)(b).

(2) When an order is made, the clerk of court must transmit to the clerk of the court to which the proceedings are transferred—

- (a) the record copy of the indictment or complaint;
- (b) the minute of proceedings;
- (c) any productions;
- (d) any relevant documents.”.

(3) In rule 22.11 (appointment of commissioner)(c)—

- (a) in paragraph (1), for “the High Court or the sheriff” substitute “the High Court, the sheriff or the justice of the peace”.
- (b) in paragraphs (2) and (3), for “the Clerk of Justiciary or sheriff clerk, as the case may be,” substitute “the clerk of court”.

(4) In rule 22.13 (video recording of commission)(d), in paragraphs (1), (2), (3) and (4), for “the Clerk of Justiciary or sheriff clerk, as the case may be,” in each place where it occurs substitute “the clerk of court”.

(5) In rule 22.14 (custody of video recording and documents)(e), in paragraphs (1) and (2), for “the Clerk of Justiciary or sheriff clerk, as the case may be,” substitute “the clerk of court”.

(6) In the Appendix—

- (a) in Form 22.1 (form of vulnerable witness notice under section 271A(2) of the Criminal Procedure (Scotland) Act 1995)(f)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) in paragraph 1, after “the sheriff court of (*place*)” where it second occurs, insert “[or the justice of the peace court of (*place*)]”;
 - (iii) after “LORDSHIP[S]”, insert “[or THE COURT]”;
 - (iv) after “Lordship[s]”, insert “[or the Court]”.
- (b) in Form 22.1ZA (Form of vulnerable witness notice under section 271A(2) of the Criminal Procedure (Scotland) Act 1995: standard special measures)(g)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) in paragraph 1, after “the sheriff court of (*place*)” where it second occurs, insert “[or the justice of the peace court of (*place*)]”;
 - (iii) after “LORDSHIP[S]”, insert “[or THE COURT]”;

(a) Section 271J(4) was inserted by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 1. It is applied to the justice of the peace court by S.S.I. 2015/xxx, article 3(1) and (4).

(b) Section 271K(3) applies section 271J(4) and (5), with modifications, for the purposes of using a screen under section 271K.

(c) Rule 22.11 was inserted by S.S.I. 2005/574.

(d) Rule 22.13 was inserted by S.S.I. 2005/574.

(e) Rule 22.14 was inserted by S.S.I. 2005/574.

(f) Form 22.1 was inserted by S.S.I. 2005/188 and last amended by S.S.I. 2015/295.

(g) Form 22.1ZA was inserted by S.S.I. 2015/295.

- (iv) after “Lordship[s]”, insert “[or the Court]”.
- (c) in Form 22.1A (form of vulnerable witness application under section 271C(2) of the Criminal Procedure (Scotland) Act 1995)(a)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) in paragraph 1, after “the sheriff court of (*place*)” where it second occurs, insert “[or the justice of the peace court of (*place*)]”;
 - (iii) after “LORDSHIP[S]”, insert “[or THE COURT]”;
 - (iv) after “Lordship[s]”, insert “[or the Court]”.
- (d) in Form 22.2A (form of objection notice under section 271A(4A) or 271C(4A) of the Criminal Procedure (Scotland) Act 1995)(b)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) after “LORDSHIP[S]”, insert “[or THE COURT]”;
 - (iii) after “Lordship[s]”, insert “[or the Court]”.
- (e) in Form 22.4 (Form of application for review of arrangements for taking evidence under section 271D of the Criminal Procedure (Scotland) Act 1995)(c)—
 - (i) after “[or [UNTO THE HONOURABLE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) after “LORDSHIP[S]”, insert “[or THE COURT]”;
 - (iii) after “Lordship[s]”, insert “[or the Court]”.
- (f) in Form 22.8A (minute seeking prohibition of personal conduct of defence by accused under section 288F of the Criminal Procedure (Scotland) Act 1995)(d)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) after “LORDSHIP[S]”, insert “[or THE COURT]”;
 - (iii) after “Lordship[s]”, insert “[or the Court]”.
- (g) in Form 22.8B (notice to accused where an order granted prohibiting the personal conduct of defence by the accused under section 288F of the Criminal Procedure (Scotland) Act 1995)(e)—
 - (i) after “[or in the sheriff court]” insert “[or in the justice of the peace court]”;
 - (ii) after “[or first diet]” insert “[or intermediate diet]”.
- (h) In Form 22.15 (form of application for leave for accused to be present during a commission under section 271I(3) of the Criminal Procedure (Scotland) Act 1995)(f)—
 - (i) after “[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*) AT (*place*)]” insert “[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of sheriffdom*) AT (*place*)]”;
 - (ii) after “Lordship[s]”, in each place where it occurs, insert “[or the Court]”.

(a) Form 22.1A was inserted by S.S.I. 2006/76 and last amended by S.S.I. 2015/295.

(b) Form 22.2A was inserted by S.S.I. 2015/295.

(c) Form 22.4 was inserted by S.S.I. 2005/188 and last amended by S.S.I. 2015/295.

(d) Form 22.8A was inserted by S.S.I. 2005/188 and last amended by S.S.I. 2007/511.

(e) Form 22.8B was inserted by S.S.I. 2005/188 and last amended by S.S.I. 2007/511.

(f) Form 22.15 was inserted by S.S.I. 2005/574 and last amended by S.S.I. 2007/237.

Saving provision

3.—(1) Paragraph 2 does not apply to criminal proceedings commenced before 23rd December 2015.

(2) For the purposes of this paragraph, criminal proceedings are taken to be commenced on the day on which a report of the case has been received by the procurator fiscal.

CJM SUTHERLAND
Lord Justice Clerk
I.P.D.

Edinburgh
17th December 2015

EXPLANATORY NOTE

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

This Act of Adjournal amends Chapter 22 (evidence of vulnerable witnesses) of the Criminal Procedure Rules 1996. This is done as a consequence of the extension to the justice of the peace court of special measures by the Justice of the Peace Courts (Special Measures) (Scotland) Order 2015 (S.S.I. 2015/xxx).

Paragraph 2 amends Chapter 22 so that references to courts, the judiciary and clerks include the justice of the peace court, justices of the peace and their clerks.

Paragraph 3 provides that these amendments do not apply to criminal proceedings which are commenced before this Act of Adjournal comes into force on 23rd December 2015. For the purposes of paragraph 3, criminal proceedings are taken to be commenced on the day on which a report of the case has been received by the procurator fiscal.

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