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## EXPLANATORY NOTE

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

### ***Extradition appeals***

This Act of Adjournal amends Chapter 34 (extradition) of the Criminal Procedure Rules 1996 in consequence of amendments made to the Extradition Act 2003 (“the 2003 Act”) by section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 which introduced a requirement to obtain leave to appeal in extradition cases.

Paragraph 2 of this instrument substitutes rules 34.3 and 34.4 of Chapter 34 and inserts a new rule 34.3A to take account of the requirement to obtain leave. Rule 34.3 specifies the forms for notes of appeal and these now contain an application for leave to appeal. The forms are substituted for the existing forms by paragraph 4(a).

Paragraph 5(1) provides that the amendments relating to extradition appeals do not apply to extradition appeals where the notice of appeal was given before 15 April 2015, which is the date on which section 160 of the Anti-social Behaviour, Crime and Policing Act 2014 came into force.

### ***Proceedings under the Proceeds of Crime Act 2002***

This Act of Adjournal also amends Chapter 37AA (proceedings under the Proceeds of Crime Act 2002) of the Criminal Procedure Rules 1996 in consequence of (a) paragraph 7 of Schedule 1 to the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (“the 2014 Regulations”) and (b) the amendments made to the Proceeds of Crime Act 2002 (“the 2002 Act”) by the Serious Crime Act 2015.

The 2014 Regulations make provision for the prosecutor, when seeking a confiscation order under section 92 of the 2002 Act, to apply to the court for a certificate under the Council Framework Decision 2006/783/JHA of 6th October 2006 on the application of the principle of mutual recognition to confiscation orders (“the 2006 Framework Decision”) in respect of property situated in another member State.

The Serious Crime Act 2015 introduces compliance orders, which may be made at the same time as a confiscation order, or later on the application of the prosecutor.

Paragraph 3(2) substitutes rule 37AA.1 in order to insert new interpretation provisions relating to the 2014 Regulations and compliance orders.

Paragraph 3(3) inserts a new rule 37AA.2A which specifies how an application for a certificate is to be made. The new rule also specifies certain matters that must be included in an application and prescribes the form of the certificate as being the form annexed to the 2006 Framework Decision. Where the court issues a certificate it must also provide for notice to be given in accordance with paragraph 7(4) of Schedule 1 to the 2014 Regulations.

Paragraph 3(4) inserts new rules 37AA.2B to 37AA.2D into the Criminal Procedure Rules 1996. Rule 37AA.2B specifies the form in which the prosecutor may apply for a compliance order under section 97B of the 2002 Act. It also specifies the form that a compliance order is to take. Rule 37AA.2C specifies the form of an application to discharge or vary a compliance order, and makes provision about the form of an appeal against a decision about discharging or varying a compliance order. Rule 37AA.2D makes provision about failure to comply with a compliance order. It requires the prosecutor to notify the court about alleged failures and specifies the form of citation requiring an accused to appear before the court in respect of such an alleged failure.

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

Paragraph 3(5) modifies rule 37AA.9, which provides for applications under certain rules to be determined at a hearing, so that it includes applications under new rules 37AA.2A to 37AA.2D.

Paragraph 4(b) inserts new Forms into the Appendix to the Criminal Procedure Rules 1996 as a consequence of new rules 37AA.2B to 37AA.2D.

Paragraph 5(2) provides that the amendments relating to compliance orders do not apply in relation to any confiscation order made under section 92 of the 2002 Act before 1st March 2016.