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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 137**

**Act of Adjournal (Criminal Procedure Rules 1996  
Amendment) (No. 2) (Serious Crime Prevention Orders) 2016**

**Citation and commencement, etc.**

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No. 2) (Serious Crime Prevention Orders) 2016.

(2) It comes into force on 17th March 2016.

(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(1) are amended in accordance with this paragraph.

(2) After Chapter 62 (request for final decision and reasons)(2) insert—

**“CHAPTER 63**

**SERIOUS CRIME PREVENTION ORDERS**

**Interpretation of this Chapter**

**63.1.**—(1) In this Chapter—

“the 2007 Act” means the Serious Crime Act 2007(3);

“person who is the subject of a serious crime prevention order” is to be construed in accordance with section 1(6) of the 2007 Act;

“serious crime prevention order” has the meaning given by section 1(5) of the 2007 Act;

“subject” means the person who is the subject of a serious crime prevention order.

**Serious crime prevention orders**

**63.2.**—(1) An application by the Lord Advocate under section 22A of the 2007 Act (orders by High Court of Justiciary and sheriff on conviction)(4) is to be in Form 63.2–A.

(2) When an application is lodged, the court must—

(a) order intimation of the application to the person who is the proposed subject;

(b) appoint a hearing on the application.

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(1) 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. 2016/103).

(2) Chapter 62 was inserted by S.S.I. 2015/375.

(3) 2007 c. 27. Part 1 was relevantly amended by the Serious Crime Act 2015 (c. 9), sections 46 and 49 and Schedule 1.

(4) Section 22A was inserted by the Serious Crime Act 2015 (c. 9), Schedule 1, paragraph 17.

(3) A serious crime prevention order made under section 22A of the 2007 Act is to be in Form 63.2–B.

#### **Variation or replacement of serious crime prevention orders**

**63.3.**—(1) An application by the Lord Advocate under section 22B of the 2007 Act (powers of High Court and sheriff to vary orders on conviction)<sup>(5)</sup> is to be made in Form 63.3–A.

(2) An application by the Lord Advocate under section 22C of the 2007 Act (powers of High Court and sheriff to vary or replace orders on breach)<sup>(6)</sup> is to be made in Form 63.3–B.

(3) When an application under section 22B or 22C is lodged, the court must—

- (a) order intimation of the application to the subject;
- (b) appoint a hearing on the application.

(4) Where the court grants an application under section 22B or 22C and varies a serious crime prevention order, the varied order is to be in Form 63.3–C.

(5) Where the court grants an application under section 22C and replaces a serious crime prevention order, the new order is to be in Form 63.3–D.

#### **Extension of serious crime prevention orders**

**63.4.**—(1) An application by the Lord Advocate under section 22E of the 2007 Act (extension of orders pending outcome of criminal proceedings)<sup>(7)</sup> is to be in Form 63.4–A.

(2) When an application is lodged, the court must—

- (a) order intimation of the application to the subject;
- (b) appoint a hearing on the application.

(3) Where the court grants an application under section 22E and varies a serious crime prevention order, the varied order is to be in Form 63.4–B.

#### **Notification of making or variation of order**

**63.5.**—(1) This rule applies where a serious crime prevention order is—

- (a) made under section 22A of the 2007 Act;
- (b) varied under section 22B, 22C or 22E of the 2007 Act; or
- (c) replaced under section 22C of the 2007 Act.

(2) Where the subject is present or represented at the hearing where the order is made, varied or replaced, the clerk of court must give a copy of the order or the variation to—

- (a) the subject;
- (b) any other person specified in the order or the variation.

(3) Where the subject is not present or represented at the hearing where the order is made, varied or replaced, the Lord Advocate must give notice of the making, variation or replacement of the order on—

- (a) the subject;
- (b) any other person specified in the order or the variation.

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<sup>(5)</sup> Section 22B was inserted by the Serious Crime Act 2015 (c. 9), Schedule 1, paragraph 17.

<sup>(6)</sup> Section 22C was inserted by the Serious Crime Act 2015 (c. 9), Schedule 1, paragraph 17.

<sup>(7)</sup> Section 22E was inserted by the Serious Crime Act 2015 (c. 9), section 49.

- (4) Notice is to be given by serving a copy of the order, the variation or the replacement order in accordance with section 10(2) of the 2007 Act.”.
- (3) Chapter 49 (financial reporting orders)(**8**) is revoked.
- (4) In the Appendix—
- (a) omit Form 49.2 (form of financial reporting order)(**9**) and Form 49.3 (form of petition for variation or revocation of financial reporting order)(**10**);
- (b) after Form 62.2 (request for final decision and reasons)(**11**), insert Forms 63.2–A, 63.2–B, 63.3–A, 63.3–B, 63.3–C, 63.3–D, 63.4–A and 63.4–B set out in the Schedule to this Act of Adjournal.

### **Saving provision**

**3.**—(1) Paragraphs 2(2) and 2(4)(b) do not apply to a person who is being dealt with on or after 1st March 2016 in relation to an offence of which the person was convicted before that date.

(2) Paragraphs 2(3) and 2(4)(a) do not apply to a financial reporting order made before 1st March 2016.

Edinburgh  
2nd March 2016

*CJM SUTHERLAND*  
Lord Justice General  
I.P.D.

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(**8**) Chapter 49 was inserted by [S.S.I. 2006/205](#) and amended by [S.S.I. 2010/418](#).  
(**9**) Form 49.2 was inserted by [S.S.I. 2006/205](#).  
(**10**) Form 49.3 was inserted by [S.S.I. 2006/205](#).  
(**11**) Form 62.2 was inserted by [S.S.I. 2015/375](#).