
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 201

**Act of Adjournal (Criminal Procedure Rules 1996 Amendment)
(No. 3) (Instruction of Representation in the High Court) 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. 3) (Instruction of Representation in the High Court) 2016.

(2) It comes into force on 3rd October 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) In Chapter 9A (Preliminary Hearings (High Court of Justiciary))⁽²⁾, after Rule 9A.3 (Notice to appear where preliminary hearing deserted) insert—

“Instruction of representation

9A.3A.—(1) This rule applies where—

- (a) the accused has been cited to answer an indictment at a preliminary hearing in the High Court; and
- (b) a solicitor has given notification under section 72F(1) of the Act of 1995 of having been engaged by the accused.

(2) Where the accused is charged with murder, before the preliminary hearing the accused’s solicitor must,—

- (a) take reasonable steps to identify a selection of Queen’s Counsel who appear to be available to accept instructions to represent the accused;
- (b) inform the accused of the accused’s right to be represented by Queen’s Counsel;
- (c) give the accused a copy of Form 9A.3A-A; and
- (d) give the accused a summary of the selection referred to in subparagraph (a).

(3) In any other case, before the preliminary hearing the accused’s solicitor must—

- (a) take reasonable steps to identify a selection of counsel who appear to be available to accept instructions to represent the accused;
- (b) give the accused a copy of Form 9A.3A-B; and
- (c) give the accused a summary of the selection referred to in subparagraph (a).

(4) In this rule “Queen’s Counsel” means counsel holding the rank of Queen’s Counsel or Queen’s Counsel, Solicitor Advocate.”

⁽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. 2016/137).

⁽²⁾ Chapter 9A was inserted by S.S.I. 2005/44.

Status: This is the original version (as it was originally made).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

(3) In the Appendix—

- (a) after Form 9A.2 (Form of application for dispensing with a preliminary hearing)(3) insert Form 9A.3A-A (Form of information regarding right to representation by Queen’s Counsel) and Form 9A.3A-B (Form of information regarding counsel) set out in the Schedule to this Act of Adjournal;
- (b) In Schedule 2 to Form 9A.4 (Form of written record of state of preparation)(4), after paragraph (2) (Section 196) insert a new paragraph 2A as follows—

“

Information for accused

(2A) Has the accused been given the information and form described in rule 9A.3A(2) or (3)? Yes/No.

”

Edinburgh
15th June 2016

CJM SUTHERLAND
Lord Justice General
I.P.D.

(3) Form 9A.2 was inserted by [S.S.I. 2005/44](#)

(4) Form 9A.4 was inserted by [S.S.I. 2005/44](#), substituted by [S.S.I. 2013/72](#) and last amended by [S.S.I. 2013/198](#).