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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 316**

**HIGH COURT OF JUSTICIARY  
SHERIFF COURT**

**Act of Adjournal (Criminal Procedure  
Rules 1996 Amendment) (Extradition) 2021**

*Made* - - - - *14th September 2021*  
*Laid before the Scottish*  
*Parliament* - - - - *16th September 2021*  
*Coming into force* - - *15th October 2021*

The High Court of Justiciary makes this Act of Adjournal under the powers conferred on it by section 305 of the Criminal Procedure (Scotland) Act 1995<sup>(1)</sup> 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) (Extradition) 2021.

(2) It comes into force on 15th October 2021.

(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<sup>(2)</sup> are amended in accordance with this paragraph.

(2) In Chapter 34 (extradition)<sup>(3)</sup>—

(a) in rule 34.1A (provisional arrest)<sup>(4)</sup>—

(i) in paragraph (1), after “section 6(3A)” insert “or section 74D(4)<sup>(5)</sup>”;

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- (1) 1995 c.46. Section 305 was amended by section 111(1) of the Criminal Justice (Scotland) Act 2016 (asp 1) and by S.S.I. 2015/338, and was extended by section 386(3)(a) of the Proceeds of Crime Act 2002 (c.29), section 36A(4) of the Serious Crime Act 2007 (c.27) and section 32(5) of the Psychoactive Substances Act 2016 (c.2).
- (2) The Criminal Procedure Rules 1996 are in schedule 2 of the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513), last amended by S.S.I. 2021/116.
- (3) Chapter 34 was substituted by S.S.I. 2004/346 and last amended by S.S.I. 2016/103.
- (4) Rule 34.1A was inserted by SSI 2011/194.
- (5) Sections 74A to 74D of the Extradition Act 2003 (c.41) were inserted by section 1 and paragraph 2 of the schedule of the Extradition (Provisional Arrest) Act 2020 (c.18).

- (ii) after paragraph (2), insert—
  - “(3) An application under this rule may be made orally.”;
- (b) in rule 34.2 (arrest under provisional warrant)—
  - (i) in the crossheading after “**warrant**” insert “**or provisional arrest without warrant**”;
  - (ii) in paragraph (1), after “warrant” insert “or section 74A (provisional arrest where certificate issued under section 74B)”.
- (3) In the appendix—
  - (a) in Form 34.3-C (form of notice of appeal under section 103 or 108 of the Extradition Act 2003)(6), in paragraph 1, for “section 73 of the Extradition Act 2003]” substitute “section 73(3) of the Extradition Act 2003] [or under section 74A (provisional arrest where certificate issued under section 74B) of the Extradition Act 2003]”;
  - (b) in Form 34.3-D (form of note of appeal under section 105 or 110 of the Extradition Act 2003), in paragraph 1, after “section 73(3) of the Extradition Act 2003]” insert “[or under section 74A (provisional arrest where certificate issued under section 74B) of the Extradition Act 2003]”;
  - (c) in Form 34.6-B (form of notice of consent to extradition to category 2 territory)(7), in the first paragraph, for “73(3) of the Extradition Act 2003]” substitute “section 73(3) of the Extradition Act 2003] [or under section 74A (provisional arrest where certificate issued under section 74B) of the Extradition Act 2003]”.

Edinburgh  
14th September 2021

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

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(6) Forms 34.3-C and 34.3-D were substituted by [S.S.I. 2004/346](#) and by [S.S.I. 2016/103](#).  
(7) Form 34.6-B was substituted by [S.S.I. 2004/346](#).

## EXPLANATORY NOTE

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

This Act of Adjournal amends Chapter 34 (extradition) of the Criminal Procedure Rules 1996 (“the 1996 Rules”) in consequence of amendments made to the Extradition Act 2003 (c.41) (“the 2003 Act”) by the Extradition (Provisional Arrest) Act 2020 (c.18). It also makes provision regarding how an application under section 6(3A) of the 2003 Act may be made.

Paragraph 2(2)(a) extends rule 34.1A to apply to an arrest made under section 74D(4) of the 2003 Act.

Paragraph 2(2)(b) amends the crossheading of rule 34.2 and extends the rule to apply to a provisional arrest where a certificate has been issued under section 74B of the 2003 Act.

Paragraph 3 makes necessary consequential amendments to Form 34.3C, Form 34.3D and Form 34.6-B in the appendix to the 1996 Rules.