
EXPLANATORY NOTE

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

This Act of Sederunt further amends the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (the “1999 Rules”).

Article 2 inserts a new Part XXV into Chapter 3 of the 1999 Rules. The new Part provides rules for procedure for applications to the sheriff under the Sexual Offences Act 2003 (the “Act”).

In terms of the Act, applications may be made to the sheriff for notification orders (under section 97); sexual offences prevention orders (under section 104) and foreign travel orders (under section 114). A relevant offence for the purposes of each of these orders includes an act constituting an offence abroad which would also have amounted to an offence in the United Kingdom had it been committed in the United Kingdom. In the case of each of these applications, the person in respect of whom an order is sought may serve on the applicant (pursuant to sections 99(3), 106(11) and 116(6) respectively) a notice disputing that an offence committed outside the United Kingdom would have constituted a relevant offence if committed in the United Kingdom. Otherwise, this is deemed to be accepted.

In the new Part—

- (a) rule 3.25.2 provides, in relation to notification orders, that such a notice requiring proof that the condition in section 99(1)(b) of the Act is met should be served no later than 3 working days before the date of the hearing of the relevant application;
- (b) rule 3.25.3 makes similar provision in relation to sexual offences prevention orders; and
- (c) rule 3.25.4 makes similar provision in relation to foreign travel orders.

Sections 108 and 118 of the Act provide for the variation, renewal and discharge of sexual offences prevention orders and foreign travel orders respectively. In both cases, applications for the relevant variation, renewal and discharge may be made either to the sheriff who made the order to which the application relates or, when the application is made by a chief constable, to a sheriff within whose sheriffdom lies any part of the area of the applicant’s police force. A section 108 application may also be made to a sheriff within whose sheriffdom the person subject to the order resides.

In the new Part—

- (a) rule 3.25.5 provides that where an application for variation, renewal or discharge of a sexual offences prevention order is made to a court other than the court which made the original order, the court which made the original order must remit the original process relating to that order to the other court within 4 days of receiving notification from that other court of the application; and
- (b) rule 3.25.6 makes similar provision in relation to applications for the variation, renewal or discharge of foreign travel orders.