
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 511

**Act of Adjournal (Criminal Procedure Rules Amendment No. 6)
(Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2007**

Citation, commencement and interpretation

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 6) (Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2007 and comes into force on 10th December 2007.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

(3) Unless the context otherwise requires, in this Act of Adjournal—

(a) a reference to a numbered rule or chapter is to the rule or chapter of that number in the Criminal Procedure Rules 1996⁽¹⁾; and

(b) a reference to a numbered form is to the form of that number in the appendix to those Rules.

Service of documents through solicitor etc.

2.—(1) In rule 2.3A (service etc. on accused through a solicitor)⁽²⁾—

(a) omit the words “in proceedings on indictment”; and

(b) after “section 72G”⁽³⁾ insert “or section 148D”.

(2) In Form 2.3A⁽⁴⁾ after “section 72G” in both places where it occurs insert “[or section 148D]”.

Power of court to excuse irregularities

3.—(1) Before Chapter 4 (bail) insert—

“CHAPTER A4

EXCUSAL OF PROCEDURAL IRREGULARITIES

Application to court to excuse procedural irregularity

A4.1.—(1) An application made in writing under section 300A of the Act of 1995 (power of court to excuse procedural irregularities)⁽⁵⁾ shall be in Form A4.1 and shall be served on the other parties to the proceedings.

(2) On an application referred to in paragraph (1) being made, the court may appoint a diet for a hearing and intimate the diet to the other parties.”.

(2) After Form 2.6-G⁽⁶⁾ insert Form A4.1 set out in the Schedule to this Act of Adjournal.

(1) The Criminal Procedure Rules 1996 are contained in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I.1996/513, last amended by S.S.I. 2007/495).

(2) Rule 2.3A was inserted by S.S.I. 2004/434.

(3) Section 72G was inserted by section 12 of the [Criminal Procedure \(Amendment\) \(Scotland\) Act 2004](#) (asp 5).

(4) Form 2.3A was inserted by S.S.I. 2004/434.

(5) Section 300A was inserted by section 40 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(6) Form 2.6-G was inserted by S.S.I. 2005/44.

Failure of accused to appear

4.—(1) After Chapter 8A (engagement, dismissal and withdrawal of solicitors in solemn proceedings)(7) insert—

“CHAPTER 8B

FAILURE OF ACCUSED TO APPEAR

Failure of accused to appear: form of warrant

8B.1. A warrant for the apprehension of an accused under section 102A of the Act of 1995 (failure of accused to appear in solemn proceedings) shall be in Form 8B.1.”

(2) After Form 8A.1-B(8) insert Form 8B.1 set out in the Schedule to this Act of Adjournal.

Electronic citation of witnesses

5.—(1) After paragraph (2) of rule 16.6 (citation of witnesses)(9) insert—

“(2A) The form of electronic citation of a person to appear as a witness at a trial on summary complaint shall be in Form 16.6-D; and the witness shall complete and return Form 16.6-B to the procurator fiscal, or the accused or his solicitor as the case may be, by electronic mail or by post within 14 days after the date of citation.”

(2) After Form 16.6-C insert Form 16.6-D set out in the Schedule to this Act of Adjournal.

Service of documents through a solicitor etc. – summary

6.—(1) After Chapter 16 (complaints) insert—

“CHAPTER 16A

ENGAGEMENT, DISMISSAL AND WITHDRAWAL OF SOLICITORS IN SUMMARY PROCEEDINGS

Notification

16A.1.—(1) The notification to the court in writing under section 148C(1) of the Act of 1995 (engagement, dismissal and withdrawal of solicitor representing accused)(10) that a solicitor has been engaged by the accused for the purposes of his defence at trial shall be in Form 16A.1-A.

(2) The notification to the court in writing under section 148C(3) of the Act of 1995 that a solicitor has been dismissed by the accused or has withdrawn from acting shall be in Form 16A.1-B.”

(2) After Form 16.7 insert Forms 16A.1-A and 16A.1-B set out in the Schedule to this Act of Adjournal.

Notice of defences

7.—(1) After rule 17.1 (appeals against extension of period of detention) insert—

(7) Chapter 8A was inserted by [S.S.I. 2004/434](#).

(8) Form 8A.1-B was inserted by [S.S.I. 2004/434](#)

(9) Rule 16.6 was amended by [S.I. 1996/2147](#).

(10) Section 148C was inserted by section 21 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

“Notice of defences

17.2.—(1) Notification to the prosecutor of a defence under section 149B of the Act of 1995 (notice of defences)(**11**) shall be in Form 17.2.

(2) At the same time as giving notification under paragraph (1) the accused shall serve a copy of the notification on any co-accused.”.

(2) After Form 17.1 insert Form 17.2 set out in the Schedule to this Act of Adjournal.

Recovery of documents

8.—(1) After Chapter 27 (routine evidence, sufficient evidence and proof of previous convictions) insert—

“CHAPTER 27A

RECOVERY OF DOCUMENTS

Appeal against decision of sheriff

27A.1.—(1) An appeal under section 301A(5) of the Act of 1995(**12**) shall be lodged with the Clerk of Justiciary not later than 2 days after the date of the decision of the sheriff and shall be served on the other parties to the proceedings.

(2) Where the last day of the period referred to in paragraph (1) falls on a Saturday, Sunday or court holiday, such period shall extend to and include the next day which is not a Saturday, Sunday or court holiday.

(3) An appeal under paragraph (1) shall be in Form 27A.1.”.

(2) After Form 27.5 insert Form 27A.1 set out in the Schedule to this Act of Adjournal.

Participation in identification procedures

9.—(1) After rule 28.1 (applications for identification parades) insert—

“Order requiring accused to participate in identification parade

28.2.—(1) An application made in writing by the prosecutor under section 267B of the Act of 1995 (order requiring accused to participate in identification parade)(**13**) shall be in Form 28.2 and shall be served on the other parties.

(2) On an application referred to in paragraph (1) being made, the court may appoint a diet for a hearing of the application.

(3) Where the court appoints a hearing under paragraph (2) it shall order intimation of the diet to the other parties.”.

(2) After Form 28.1-B insert Form 28.2 set out in the Schedule to this Act of Adjournal.

Bail address

10.—(1) In Form 15.2-D(**14**) after paragraph 3 insert—

“4. That the address of the place that the petitioner is proposing would be his normal place of residence upon admission to bail pending determination of his appeal is [*address*].”.

(11) Section 149B was inserted by section 19 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(12) Section 301A was inserted by section 37 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(13) Section 267B was inserted by section 34 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(14) Form 15.2-D was amended by [S.S.I. 2003/468](#).

- (2) Existing paragraph 4 of Form 15.2-D is re-numbered paragraph 5.

Evidence on commission

11.—(1) In Form 16.1-B(15)–

- (a) after the word “defence” where it first appears insert “(including at any commissioner proceedings)”; and
- (b) after the words “defence at the trial” insert “(including at any related commissioner proceedings)”.

(2) In Form 16.1-BA(16) after the words “defence at trial” in paragraphs (1) and (2) insert “(including at any related commissioner proceedings)”.

(3) In Form 22.7(17)–

- (a) after the word “defence” in paragraph (1) insert “(including at any commissioner proceedings)”; and
- (b) after the words “Criminal Procedure (Scotland) Act 1995]” insert “(or at any related commissioner proceedings)”.

(4) In Form 22.8-A(18) after the word “trial” wherever it appears in paragraphs (2) and (3) and in subparagraph (b) of the crave insert “(or at any related commissioner proceedings)”.

(5) In Form 22.8-B(19)–

- (a) after the word “trial” wherever it appears insert “(or at any related commissioner proceedings)”; and
- (b) after the word “defence” wherever it appears insert “(including at any related commissioner proceedings)”.

Summary appeal time limit

12. In Form 19.4 for the words “(*name of judge*) is temporarily absent from duty” substitute “(*here specify reasons*)”.

Edinburgh
9th November 2007

A C HAMILTON
Lord Justice General I.P.D.

(15) Form 16.1-B was amended by [S.S.I. 2002/454](#).
(16) Form 16.1-BA was inserted by [S.S.I. 2002/454](#).
(17) Form 22.7 was inserted by [S.S.I. 2005/188](#) and amended by [S.S.I. 2006/302](#).
(18) Form 22.8-A was inserted by [S.S.I. 2005/188](#) and amended by [S.S.I. 2006/302](#).
(19) Form 22.8-B was inserted by [S.S.I. 2005/188](#) and amended by [S.S.I. 2006/302](#).