

SCHEDULE 2

CRIMINAL PROCEDURE RULES 1996

PART VII

Miscellaneous procedures

CHAPTER 30

PROCEEDINGS FOR THE EXECUTION OF IRISH WARRANTS

Interpretation of this Chapter

30.1. In this Chapter, unless the context otherwise requires—

“the Act of 1965” means the Backing of Warrants (Republic of Ireland) Act 1965⁽¹⁾;

“judicial authority” means a court, judge or justice of a court, or peace commissioner.

Form of endorsement

30.2.—(1) The endorsement of a warrant for execution within any part of Scotland under section 1 of the Act of 1965 (endorsement of warrants issued in Republic of Ireland) shall be in Form 30.2-A.

(2) A warrant issued under section 4 of the Act of 1965 (provisional warrants) shall be in Form 30.2-B.

(3) Where a person has been remanded in custody under section 2(1) or 4(3) of the Act of 1965 (which relate to proceedings before the sheriff), the order of the court shall be endorsed by the court on the warrant and delivered to the prison governor to whose custody the person has been remanded.

(4) Where a person who has been ordered to be delivered in accordance with section 2(1) of the Act of 1965 is remanded on bail, the bail order shall contain a condition requiring him to surrender at a specified police station at a time and date to be notified to him by or on behalf of the officer in charge of that station.

Procedure in applications for stated case under section 2A of the Act of 1965

30.3.—(1) The sheriff clerk of a court which refused to order a person to be delivered under section 2 of the Act of 1965⁽²⁾ (proceedings before sheriff) but made an order under section 2A⁽³⁾ of that Act releasing that person on bail shall, on the procurator fiscal immediately informing the court that he intends to make an application to the court to state a case for the opinion of the High Court, forthwith send a copy of that order to the Crown Agent.

(2) Where a court refuses to make an order in relation to a person under section 2 of the Act of 1965, any application to the court under section 2A(1) of the Act of 1965 (application to state a case for the opinion of the High Court on ground that it is wrong in law) shall be made to the court by the procurator fiscal within 21 days after the day on which the order was refused, unless the court grants a longer period within which the application is to be made.

(3) Such an application shall be made in writing and shall identify the question of law on which the opinion of the High Court is sought.

(1) 1965 c. 45.

(2) Section 2 was amended by the Criminal Jurisdiction Act 1975 (c. 59), Schedule 3, paragraph 1, the Suppression of Terrorism Act 1978 (c. 26), section 2(2) and section 72(2) of the Criminal Justice Act 1993 (c. 36).

(3) Section 2A was inserted by the Criminal Justice (Scotland) Act 1988 (c. 33), Schedule 1, paragraph 5 and continues to have effect by virtue of section 37(5) of the Extradition Act 1989 (c. 33).

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

(4) Within 21 days after receipt of an application to state a case under section 2A(1) of the Act of 1965, the sheriff clerk shall send a draft stated case to the procurator fiscal and to the person to whom the warrant relates or his solicitor; and the sheriff shall allow each party 21 days from the date of the sending of the draft stated case within which to lodge and intimate proposed adjustments.

(5) Within seven days after the latest date on which adjustments may be lodged, the sheriff shall on the motion of either party, or may of his own accord, hear parties on any such adjustments.

(6) Within 14 days after the latest date on which such hearing on adjustments may take place or, if there are no such adjustments, within 14 days after the latest date by which such adjustments could have been lodged, the sheriff shall, after considering any such proposed adjustments and representations, state and sign the case; and the sheriff clerk shall—

- (a) forthwith transmit the case, with the application for the case and all other documents, to the Clerk of Justiciary; and
- (b) send a duplicate of the case to the procurator fiscal and to the person to whom the warrant relates or his solicitor.

(7) Where any period of time specified in paragraphs (4), (5) or (6) expires on a Saturday, Sunday or court holiday prescribed for the sheriff court concerned, the period shall be extended to expire on the next day which is not a Saturday, Sunday or such court holiday.

(8) Where the sheriff who refuses to make an order referred to in paragraph (2) becomes temporarily absent from duty for any cause, the sheriff principal of the sheriffdom in which the court is situated may extend any period of time specified in that paragraph for such period as he considers reasonable.

(9) Where the sheriff referred to in paragraph (4), (5) or (6) dies before signing the stated case, the applicant for the stated case may present a bill of suspension to the High Court and bring under the review of that court any matter which might have been brought under review by stated case.

Power of High Court to extend period of time

30.4.—(1) Without prejudice to any other power of relief which the High Court may have, where it appears to that court, on an application made in accordance with the following provisions of this rule, that a party has failed to comply with any of the requirements of paragraph (2) or (4) of rule 30.3 (procedure in applications for stated case under section 2A of the Act of 1965), the High Court may direct that such further period of time as it considers reasonable be afforded to such party to comply with any requirements of paragraph (2) or (4) of rule 30.3.

(2) An application for a direction under paragraph (1) shall be made in writing to the Clerk of Justiciary and shall state the grounds for the application; and notification of the application shall be made by the applicant to the sheriff clerk.

(3) On receipt of such notification, the sheriff clerk shall transmit a certified copy of the complaint, documentary productions and any other proceedings in the case to the Clerk of Justiciary.

(4) The High Court shall dispose of any application under paragraph (1) in the same manner as an appeal in respect of bail under section 32 of the Act of 1995.

(5) After the High Court has disposed of the application, the Clerk of Justiciary shall inform the sheriff clerk of the result.

Notice of consent to early removal

30.5.—(1) A notice given under section 3(1)(a) of the Act of 1965 (consent to removal earlier than is otherwise permitted) shall be in Form 30.5, and shall be signed in the presence of a sheriff, a justice of the peace or a sheriff clerk who shall also sign it.

(2) Any such notice given by a person who has been remanded in custody shall be delivered to the governor of the prison in which he is detained.

(3) Where a person remanded on bail gives such notice, he shall deliver or send it to the clerk of the court which so remanded him.

Handing over of warrant of arrest

30.6.—(1) Where a person has been ordered to be delivered under section 2(1) of the Act of 1965 (proceedings before the sheriff)—

(a) if the person is remanded on bail, the sheriff clerk, or

(b) if the person is detained in custody, the governor of the prison in which he is detained,

shall arrange for the warrant of arrest issued by a judicial authority in the Republic of Ireland and endorsed in accordance with section 1 of that Act to be given to the member of the police force of the Republic of Ireland into whose custody the person is delivered when the person is so delivered.

(2) Where a person ordered to be delivered under section 2(1) of the Act of 1965 is remanded on bail, the sheriff clerk shall send a copy of the bail order to the police station at which that person is to surrender.

Certification of warrant

30.7.—(1) A document purporting to be a warrant issued by a judicial authority in the Republic of Ireland shall, for the purposes of section 7(a) of the Act of 1965 (evidence as to warrants), be verified by a certificate purporting to be signed by a judicial authority, a clerk of a court or a member of the police force of the Republic of Ireland and certifying that the document is a warrant and is issued by a judicial authority.

(2) A document purporting to be a copy of a summons issued by a judicial authority in the Republic of Ireland shall, for the purposes of section 7(a) of the Act of 1965, be verified by a certificate purporting to be signed by a judicial authority, clerk of court or member of the police force of the Republic of Ireland and certifying that the document is a true copy of such a summons.

(3) A deposition purporting to have been made in the Republic of Ireland, or an affidavit or written statement purporting to have been sworn there, shall, for the purposes of section 7(c) of the Act of 1965 (admission of depositions), be verified by a certificate purporting to be signed by the person before whom it was sworn and certifying that it was so sworn.