
STATUTORY INSTRUMENTS

1998 No. 1842 (S.97)

**HIGH COURT OF JUSTICIARY, SCOTLAND
SHERIFF COURT, SCOTLAND**

**Act of Adjournal (Criminal Procedure Rules
Amendment) (Restriction of Liberty Orders) 1998**

Made - - - - *23rd July 1998*
Coming into force - - *17th August 1998*

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by section 305 of the Criminal Procedure (Scotland) Act 1995(1) and of all other powers enabling them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Restriction of Liberty Orders) 1998 and shall come into force on 17th August 1998.

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

Form of restriction of liberty order etc.

2.—(1) The Act of Adjournal (Criminal Procedure Rules) 1996((2) shall be amended as follows.

(2) In Chapter 20 (sentencing), after Rule 20.12 insert—

“Restriction of liberty orders

20.12A. —

(1) A restriction of liberty order made under section 245A(1) of the Act of 1995 shall be in form 20.12A-A.

(2) An application under section 245E(1) (application to review a restriction of liberty order) of that Act shall be in form 20.12A-B.

(3) The citation of an offender under section 245E(3) (citation to appear before a court which proposes to vary or revoke a restriction of liberty order) of that Act shall be in form 20.12A-C.

(1) 1995 c. 46.
(2) S.I.1996/513.

Status: This is the original version (as it was originally made).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

(4) The citation of an offender under section 245F(1) (citation for failure to comply with requirement of restriction of liberty order) of that Act shall be in form 20.12A-D.”.

(3) In the appendix, after form 20.12-B, insert as forms 20.12A-A, 20.12A-B, 20.12A-C and 20.12A-D the forms so headed in the Schedule to this Act of Adjournal.

Edinburgh
23rd July 1998

Rodger of Earlsferry
Lord Justice General, I.P.D.

SCHEDULE

Paragraph 2(3).

Form 20.12A-A

RESTRICTION OF LIBERTY ORDER

under section 245A(1) of the Criminal Procedure (Scotland) Act 1995

COURT:

DATE:

OFFENDER'S NAME, ADDRESS AND DATE OF BIRTH:

OFFENCE FOR WHICH CONVICTED:

THE COURT, having convicted (*name of offender*) of (*specify offence*) and being satisfied that the most appropriate method of disposal is to make an order under subsection (1) of section 245A of the Criminal Procedure (Scotland) Act 1995;

AND having complied with any requirement imposed on it by subsection (6) of, and provided the offender with the explanation required by subsection (4) of, that section and obtained from him his agreement that he will comply with the requirements of the proposed order;

ORDERS that for (*specify, as respects a day [or week], a period in that day [or week]*) the offender shall be in (*specify a place*) [or that at (*specify a time*) [or during (*specify a period*)] the offender shall not be in (*specify a place*)].

(*Signed*)

Clerk of Court.

Date:

Note: (*Name and address of monitor*) has been designated by the court, under section 245B(2) of the Criminal Procedure (Scotland) Act 1995, as the person responsible for monitoring the offender's compliance with this order.

I confirm that I understand the requirements of this order and will comply with them.

(*Signed*)

Offender.

Form 20.12A-B

**Form of application under section 245E(1) of
the Criminal Procedure (Scotland) Act 1995**

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[or Unto The Honourable The Sheriff of (*name of sheriffdom*)

At (*place*)]

[or Unto The Justices In The District Court Of (*name of district*) At (*place*)]

Application

by

(*name of offender*) (*address*) [or Prisoner

in the Prison of (*place*)]

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

[*or name and address of applicant with responsibility for monitoring offender's compliance with restriction of liberty order*]

APPLICANT

HUMBLY SHEWETH

1. That a restriction of liberty order, a copy of which is annexed to this application, was made in respect of (*name of offender*) on (*date*) in the High Court of Justiciary sitting [*or* in the sheriff court *or* in the district court] at (*place*).

2. That the applicant applies to the court in terms of subsection (1) of section 245E of the Criminal Procedure (Scotland) Act 1995 to revoke [*or vary*] the order for the following reason—

(*statement of reason*)

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*OR THE COURT*]:

(a) to [revoke the restriction of liberty order] [vary the restriction of liberty order by (*statement of variation sought in terms of subsection (2) (a) of the said section 245E*)],

or

(b) to do otherwise as to your Lordship[s] [*or to the court*] shall seem proper.

IN RESPECT WHEREOF

(*Signed*)

Offender

[*or Solicitor for offender*]

[*or applicant with responsibility for monitoring compliance*]

(*Where a solicitor signs, the address and telephone number of the solicitor*).

Form 20.12A-C

Form of citation of offender under section 245E(3) of the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date of citation: (*date of citation or, if citation by post, the day after the date of posting*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [*or* Sheriff [*or* District] Court] at (*address*) because it appears to the court to be in the interests of justice that the restriction of liberty order made in respect of you on (*date*) should be varied or revoked.

**IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY
ISSUE A WARRANT FOR YOUR ARREST.**

(*Signed*)

Advocate Depute [*or* Procurator Fiscal]

On behalf of Her Majesty's Advocate.

Form 20.12A-D

Form of citation of offender under section 245F(1) of the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[or IN THE SHERIFF [or DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date of citation: (*date of citation or, if citation by post, the day after the date of posting*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [or Sheriff [or District] Court] at (*address*) because it has been reported to the court that you have failed to comply with a requirement of your restriction of liberty order by (*specify the failure alleged*).

**IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY
ISSUE A WARRANT FOR YOUR ARREST.**

(*Signed*)

Advocate Depute [or Procurator Fiscal]

On behalf of Her Majesty's Advocate.

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules by prescribing the form in which a restriction of liberty order, an application to review any such order, and a citation to appear before a court which proposes to vary or restrict, or to address a reported failure to comply with a requirement of, any such order, is to be made.