SCOTTISH STATUTORY INSTRUMENTS

2004 No. 434

HIGH COURT OF JUSTICIARY
SHERIFF COURT

Act of Adjournal (Criminal Procedure Rules Amendment No. 4) (Criminal Procedure (Amendment) (Scotland) Act 2004) 2004

Made - - - - 30th September 2004
Coming into force - - 4th October 2004

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, with the consent of the Scottish Ministers, 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 No. 4) (Criminal Procedure (Amendment) (Scotland) Act 2004) 2004 and shall come into force on 4th October 2004.

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

Amendment of the Act of Adjournal (Criminal Procedure Rules) 1996

2.—(1) The Act of Adjournal (Criminal Procedure Rules) 1996(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 2.3(1) (general provisions for service) after "this rule" there shall be inserted "and to rule 2.3A".

(3) After rule 2.3 (general provisions for service) there shall be inserted the following:–

"**Service etc. on accused through a solicitor**

2.3A. Where in proceedings on indictment anything is to be served on, given, notified or intimated to a solicitor under section 72G of the Act of 1995(**3**) it shall be—

(**1**) 1995 c. 46.
(**2**) S.I. 1996/513, last amended by S.S.I. 2004/346.
(**3**) Section 72G was inserted by section 12 of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5).

(a) delivered to the solicitor personally;

(b) left for the solicitor with an employee or partner of the solicitor at the solicitor's place of business; or

(c) posted to the solicitor's place of business by the first class recorded delivery service,

with a notice in Form 2.3A.".

(4) In rule 2.5(1) (service by post) after "Act of 1995" there shall be inserted "or of these Rules".

(5) After Chapter 8 (the indictment) there shall be inserted the following:–

"CHAPTER 8A

ENGAGEMENT, DISMISSAL AND WITHDRAWAL OF SOLICITORS IN SOLEMN PROCEEDINGS

Notification

8A.1.—(1) The notification to the court in writing under section 72F(1) of the Act of 1995(**4**) that a solicitor has been engaged by the accused for the purposes of his defence in any part of proceedings on indictment shall be in Form 8A.1–A.

(2) The notification to the court in writing under section 72F(2) of the Act of 1995 that a solicitor has been dismissed by the accused or has withdrawn from acting shall be in Form 8A.1–B.

Further pre–trial diet

8A.2.—(1) An order for a further pre–trial diet under section 72F(3) of the Act of 1995 may be signed by the clerk of court.

(2) An order mentioned in paragraph (1) shall be intimated by the clerk of court to all parties and to the governor of any institution in which the accused is detained.".

(6) After Chapter 13 (summoning of jurors) there shall be inserted the following:–

"CHAPTER 13A

WITNESSES

Citation of witnesses for precognition

13A.1. The form of citation of a witness for precognition under section 267A of this Act of 1995(**5**) shall be in Form 13A.1.".

(7) In the appendix–

(a) at the beginning there shall be inserted the form set out in Part 1 of the Schedule to this Act of Adjournal;

(b) after Form 8.3 there shall be inserted the forms set out in Part 2 of the Schedule to this Act of Adjournal;

(c) after Form 13.2-B there shall be inserted the form set out in Part 3 of the Schedule to this Act of Adjournal; and

(d) in Form 20.12A-A (restriction of liberty order)(**6**) before "(*Signed*)" there shall be inserted the following:–

(**4**) Section 72F was inserted by section 8 of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5).
(**5**) Section 267A was inserted by section 22 of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5).
(**6**) Form 20.12A was inserted by S.I. 1998/1842 and amended by S.S.I. 2003/468.

"[ORDERS that the offender shall continuously [or (*specify*)] wear or carry a device for the purposes of enabling the remote monitoring of his compliance with this order to be carried out.]

[ORDERS that the offender shall not tamper with or intentionally damage the device or knowingly allow it to be tampered with or intentionally damaged.]".

Edinburgh
30th September 2004

Cullen of Whitekirk
Lord Justice General I.P.D.