SCOTTISH STATUTORY INSTRUMENTS

2003 No. 468

HIGH COURT OF JUSTICIARY
SHERIFF COURT
DISTRICT COURTS

Act of Adjournal (Criminal Procedure Rules Amendment No.2) (Miscellaneous) 2003

Made - - - - 26th September 2003
Coming into force - - 27th October 2003

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 No.2) (Miscellaneous) 2003 and shall come into force on 27th October 2003.

(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(**4**) shall be amended in accordance with the following paragraphs.

(2) In rule 2.2(1) (citation in solemn proceedings) for "section 66" there shall be substituted "section 66(4)(a)".

(3) Rule 2.3(2) (manner of citation of probationer) shall be omitted.

(4) In rule 2.6 (forms of execution of service)–

(a) after paragraph (1) there shall be inserted the following:–

"(1A) The execution of a citation of a person accused on indictment referred to in rule 8.2(1A) (citation of accused by affixing a notice) shall be in Form 2.6-AA.";

(b) after paragraph (2) there shall be inserted the following:–

(**1**) 1995 c. 46.
(**4**) S.I. 1996/513, last amended by S.S.I. 2003/387.

"(2A) The execution of a citation of an accused referred to in rule 16.1(2A) (citation of accused by affixing a notice) shall be in Form 2.6-BA."; and

(c) for paragraph (5) there shall be substituted the following:–

"(5) The execution of a citation referred to in–

(a) rule 20.3(2) or (3) (supervised release orders: form of citation of offender) shall be in Form 2.6-EA;

(b) rule 20.10(2) or (3) (probation orders: forms of citation of probationer) shall be in Form 2.6-EB;

(c) rule 20.11(3) or (4) (supervised attendance orders: forms of citation of offender) shall be in Form 2.6-EC;

(d) rule 20.12(2) (community service orders: forms of citation of offender) shall be in Form 2.6-ED;

(e) rule 20.12A(3) or (4) (restriction of liberty orders: forms of citation of offender) shall be in Form 2.6-EE; and

(f) rule 20.12B(2) or (3) (drug treatment and testing orders: forms of citation of offender) shall be in Form 2.6-EF."

(5) In rule 3.1 (books of adjournal)–

(a) for paragraphs (1)(a)(ii) and (1)(b)(ii) there shall be substituted the following:–

"(ii) the minute of proceedings prepared by the Clerk of Justiciary"; and

(b) in paragraph (3), for the word "summary" there shall be substituted the word "minute".

(6) In rule 8.2 (citation of accused and witnesses), after paragraph (1) there shall be inserted the following:–

"(1A) The notice to be affixed to the door of the dwelling-house or place of business of a person accused on indictment for the purposes of section 66(4)(b) of the Act of 1995 (citation of accused by affixing a notice) shall be in Form 8.2-AA.".

(7) For rule 9.2 (intimation of minute) there shall be substituted the following:–

"**9.2.** A minute mentioned in rule 9.1 shall be–

(a) lodged with the clerk of court; and

(b) served on every other party,

by the minuter.".

(8) In rule 16.1 (form of complaints and related notices and forms), after paragraph (2) there shall be inserted the following:–

"(2A) The notice to be affixed to the door of the dwelling-house or place of business of an accused for the purposes of section 141(2A) of the Act of 1995 (citation of accused by affixing a notice) shall be in Form 16.1-BB.".

(9) Rule 19.18 (presentation of summary sentence appeal in writing) shall be numbered "19.19".

(10) After Chapter 19 (appeals from summary proceedings) there shall be inserted the following:–

"CHAPTER 19A

ADJOURNMENT BEFORE SENTENCE UNDER SECTION 201 OR DEFERRED SENTENCE UNDER SECTION 202 OF THE ACT OF 1995

Power of clerk of Justiciary to alter place where case to be heard

19A.1.—(1) Where the High Court has–

(a) adjourned a case under section 201 of the Act of 1995; or

(b) deferred sentence in a case under section 202 of the Act of 1995,

the Clerk of Justiciary may make an order altering the place where the case is to be heard, not later than two days before the case is to be called.

(2) The Clerk of Justiciary shall intimate an order made under paragraph (1) to–

(a) the parties to the proceedings; and

(b) the governor of any institution in which the accused is detained,

not later than two days before the case is to be called.

CHAPTER 19B

CASES REFERRED BY THE SCOTTISH CRIMINAL CASES REVIEW COMMISSION UNDER SECTION 194B OF THE ACT OF 1995

References in solemn proceedings

19B.1.—(1) This rule applies to a referral by the Scottish Criminal Cases Review Commission to the High Court in solemn proceedings under section 194B of the Act of 1995.

(2) Within eight weeks of the date of referral, the person who has been convicted shall lodge a note of appeal in Form 15.2-B with the Clerk of Justiciary and subsections (2) to (4) and (6) of section 110 of the Act of 1995 shall apply to the note.

(3) A note of appeal lodged under the preceding paragraph shall be treated as if leave to appeal in terms of section 107(1)(a) of the Act of 1995 has been granted.

References in summary proceedings

19B.2.—(1) This rule applies to a referral by the Scottish Criminal Cases Review Commission to the High Court in summary proceedings under section 194B of the Act of 1995.

(2) Where the Clerk of Justiciary receives a reference in summary proceedings, he shall–

(a) assign the referral to a procedural hearing; and

(b) as soon as possible thereafter, intimate the diet to every party and to the governor of any institution in which any accused is detained.

(3) At the procedural hearing the High Court may make directions as to the procedure to be followed in the determination of the referral.".

(11) For rule 20.3 (form of supervised release orders) there shall be substituted the following:–

"**Supervised release orders**

20.3.—(1) An order under section 209 of the Act of 1995 (supervised release orders) shall be in Form 20.3-A.

(2) The citation of an offender to appear before a court under section 15(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (variation of supervised release order etc.) shall be in Form 20.3-B.

(3) The citation of an offender to appear before a court under section 18(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (breach of supervised release order) shall be in Form 20.3-C.".

(12) In rule 20.10 (probation orders), at the end there shall be inserted the following:–

"(3) The citation of a probationer under paragraph 5(1) of Schedule 6 to the Act of 1995 (amendment of probation order) shall be in Form 20.10-C.".

(13) For rule 20.11 (form of supervised attendance orders) there shall be substituted the following:–

"**Supervised attendance orders**

20.11.—(1) A supervised attendance order made under section 235(1) of the Act of 1995 shall be in Form 20.11-A.

(2) A supervised attendance order made under section 236 of the Act of 1995 (supervised attendance orders in place of fines for 16 and 17 year olds) shall be in Form 20.11-B.

(3) The citation of an offender to appear before a court under paragraph 5(3) of Schedule 7 to the Act of 1995 (extension, variation and revocation etc. of supervised attendance orders) shall be in Form 20.11-C.

(4) The citation of an offender to appear before a court under paragraph 4(1) of Schedule 7 to the Act of 1995 (breach of requirement of or other provision relating to supervised attendance order) shall be in Form 20.11-D.".

(14) For rule 20.12B (form and notification of drug treatment and testing orders) there shall be substituted the following:–

"**Drug treatment and testing orders**

20.12B.—(1) A drug treatment and testing order made under section 234B of the Act of 1995 shall be in Form 20.12B-A.

(2) The citation of an offender to appear before a court under section 234E(2) of the Act of 1995 (variation or revocation of drug treatment and testing order) shall be in Form 20.12B-B.

(3) The citation of an offender to appear before a court under section 234G(1) of the Act of 1995 (breach of drug testing and treatment order) shall be in Form 20.12B-C.".

(15) In rule 37AA.9 (hearings under the Proceeds of Crime Act 2002), for each of "37.2", "37.3", "37.6", "37.7", "37.8" and "37.10" there shall be substituted "37AA.2", "37AA.3", "37AA.6", "37AA.7", "37AA.8" and "37AA.10" respectively.

(16) After Chapter 43 there shall be inserted the following:–

"CHAPTER 44

INTERNATIONAL CRIMINAL COURT ACT 2001

Interpretation of this Chapter

44.1. In this Chapter, "the Act of 2001" means the International Criminal Court Act 2001(**2**).

(**2**) 2001 c. 17.

Consent to surrender

44.2. Consent to surrender given under section 7 of the Act of 2001 (consent to surrender) shall be in writing in Form 44.2.

Waiver of right to review

44.3. Waiver given under section 13 of the Act of 2001 (waiver of the right to review) shall be in writing in Form 44.3.

CHAPTER 45

FUR FARMING (PROHIBITION) (SCOTLAND) ACT 2002

Interpretation of this Chapter

45.1. In this Chapter, "the Act of 2002" means the Fur Farming (Prohibition) (Scotland) Act 2002(**3**).

Representations in forfeiture orders

45.2.—(1) This rule applies where the Court is deciding whether to make a forfeiture order in terms of section 2 of the Act of 2002 (forfeiture orders).

(2) A person who wishes to make representations to the court under subsection (7) of section 2 of the Act of 2002 shall do so–

(a) in writing to the Clerk of Court, unless the court otherwise directs; and

(b) by such date as the court directs.".

(17) In the appendix–

(a) Forms 3.1-A and 3.1-B shall be omitted;

(b) in Form 9.1 paragraph 3 shall be omitted;

(c) in each of Forms 10.1-A and 10.1-B, for the words beginning "Served" to the end, there shall be substituted the following:–

"(Signed)

For Her Majesty's Advocate

or Procurator Fiscal Depute";

(d) at the end of each of Forms 15.2-A, 15.2-B, 15.2-D and 15.3-B, there shall be inserted the following:–

"**NOTE: THE PARTY LODGING THIS FORM MUST, IMMEDIATELY AFTER IT IS LODGED, INTIMATE IT TO:**

THE CROWN AGENT, THE CROWN OFFICE, 25 CHAMBERS STREET, EDINBURGH, EH1 1LA";

(e) Form 20.3 shall be numbered "20.3-A";

(f) in Form 20.10-B (form of citation of probationer under section 232(1) or 233(1) of the Criminal Procedure (Scotland) Act 1995, for "Officer of Law [*or* Clerk of Court]" there shall be substituted "Clerk of Court";

(g) in Form 20.12A-A (form of restriction of liberty order), after "OFFENDER'S NAME, ADDRESS AND DATE OF BIRTH:" there shall be inserted the following:–

(**3**) 2002 asp 10.