

## SCHEDULE 2

### CRIMINAL PROCEDURE RULES 1996

#### *PART VII*

##### *Miscellaneous procedures*

#### **CHAPTER 37**

### **PROCEEDINGS UNDER THE PROCEEDS OF CRIME (SCOTLAND) ACT 1995**

#### **Orders to make material available**

**37.1.**—(1) An application by the procurator fiscal to the sheriff for an order under section 18(2) of the Proceeds of Crime (Scotland) Act 1995(1) (order to make material available in investigation of drug trafficking) shall be made by petition; and section 134 (incidental applications) of the Act of 1995 shall apply to any such application as it applies to an application referred to in that section.

(2) The sheriff may make the order sought in the petition under paragraph (1) before intimation of the petition to the person who appears to him to be in possession of the material to which the application relates.

(3) An application by the procurator fiscal for an order under section 18(5) of the Proceeds of Crime (Scotland) Act 1995 (order to allow constable to enter premises to obtain access to material) may be made in the petition applying for an order under section 18(2); and paragraph (2) of this rule shall apply to an order in respect of a person who appears to the sheriff to be entitled to grant entry to the premises in question as it applies to an order in respect of the person mentioned in that paragraph.

#### **Discharge and variation of orders**

**37.2.**—(1) A person, in respect of whom an order has been made under section 18(2) or (5) of the Proceeds of Crime (Scotland) Act 1995 (which relate to orders to make material available in investigating drug trafficking), may apply to the sheriff for discharge or variation of the order in question.

(2) The sheriff may, after hearing the parties, grant or refuse to grant the discharge or variation sought.

#### **Warrants to search premises**

**37.3.** An application by the procurator fiscal to the sheriff under section 19(1) of the Proceeds of Crime (Scotland) Act 1995 (authority for search) shall be made by petition; and section 134 (incidental applications) of the Act of 1995 shall apply to any such application for a warrant as it applies to an application for a warrant referred to in that section.

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(1) 1995 c. 43.