
STATUTORY INSTRUMENTS

1997 No. 2082 (S.148)

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

**Act of Adjournal (Criminal Procedure
Rules Amendment No. 5) 1997**

Made - - - - - *26th August 1997*

Coming into force - - - - - *1st September 1997*

The Lord Justice General, Lord Justice-Clerk and Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by section 16B(4) of the Criminal Law (Consolidation) (Scotland) Act 1995(1) and section 305 of the Criminal Procedure (Scotland) Act 1995(2) 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. 5) 1997 and shall come into force on 1st September 1997.

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

Amendment of the Criminal Procedure Rules

2.—(1) Schedule 2 (criminal procedure rules) to the Act of Adjournal (Criminal Procedure Rules) 1996(3) shall be amended in accordance with this Act of Adjournal.

(2) After rule 20.3 insert—

“Sexual offences to which Part I of Sex Offenders Act 1997 applies

20.3A –

(1) A certificate in terms of section 5(2) of the Sex Offenders Act 1997(4) (certificate for the purposes of Part I of that Act that an accused has been convicted of, found not guilty by

(1) 1995 c. 39; section 16B was inserted by the Sex Offenders Act 1997 (c. 51), section 8.

(2) 1995 c. 46.

(3) S.I.1996/513.

(4) 1997 c. 51.

reason of insanity of, or found to be under a disability and to have done an Act charged against him in respect of, a sexual offence to which that Part applies) shall be in Form 20.3A-A.

(2) Subject to paragraph (3) of this rule, when a certificate such as is mentioned in paragraph (1) of this rule is prepared, the accused shall be given a copy of it by the clerk of the court, together with a notice in Form 20.3A-B.

(3) If the certificate is not prepared immediately after the statement in open court but is to be prepared subsequently, the clerk of the court shall forthwith give the accused the notice required by paragraph (2) of this rule and shall in due course send a copy of the certificate to the accused.

(4) The clerk of the court shall retain a copy of the notice given to the accused and shall record on that copy the fact that notice has been so given.

(5) The record made under paragraph (4) of this rule shall be sufficient evidence of the fact recorded; and a certificate of posting sufficient evidence of the sending of a copy under paragraph (3) of this rule.”.

(3) After rule 27.4(5) insert–

“Notice under section 16B(4) of Criminal Law (Consolidation) (Scotland) Act 1995

27.5 –

(1) Any notice under section 16B(4) of the Criminal Law (Consolidation) (Scotland) Act 1995 (notice served on prosecutor by person accused of sexual offence disputing whether an act done by him abroad constituted an offence under the law in force in the country or territory in question) shall be in Form 27.5 and may be served on the prosecutor by any of the methods of service mentioned in rule 2.3.

(2) Any such notice shall be served not later than 21 days before the trial diet; and when he serves such a notice the accused shall serve a copy of it on any co-accused or on the solicitor of any co-accused.”.

(4) In the Appendix–

(a) after Form 20.3 insert–

(i) as Form 20.3A-A the form which is in Schedule 1; and

(ii) as Form 20.3A-B the form which is in Schedule 2; and

(b) after Form 27.4(6) insert as Form 27.5 the form which is in Schedule 3, to this Act of Adjournal

Edinburgh,
26th August 1997

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

(5) Rule 27.4 was inserted by S.I. 1997/63, paragraph 2(3).

(6) Form 27.4 was inserted by S.I. 1997/63, paragraph 2(4).

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

SCHEDULE 1

Paragraph 2(4)(a)(i)

FORM 20.3A-A Form of a certificate in terms of section 5(2) of Sex Offenders Act 1997 of Conviction or of Finding

Rule 20.3A(1)

CERTIFICATE IN TERMS OF SECTION 5(2) OF SEX OFFENDERS ACT 1997 OF [CONVICTION] [FINDING]

..... **Court** **Date**
Case No.

Name:
Address:
Date of birth:
Date of [conviction] [finding]:
Date of sentence if different:
Offence(s) and sentence(s):

I hereby certify, in terms of section 5(2) of the Sex Offenders Act 1997, that the above named accused was on the above date [convicted of] [found not guilty by reason of insanity of] [found to be under a disability and to have done the act[s] charged against him in respect of] the above offence[s]; that the [offence is a sexual offence] [offences are sexual offences] to which Part I of that Act applies; and that the court so stated in open court on that date.

.....
CLERK OF THE COURT

SCHEDULE 2

Paragraph 2(4)(a)(ii)

FORM 20.3A-B Form of notice of Requirement under section 2 of Sex Offenders Act 1997 to notify police of conviction or of finding NOTICE OF REQUIREMENT TO NOTIFY POLICE

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Rule 20.3A(2)

(This notice contains a summary of the notification requirements you must comply with. It is not a complete statement of the law. If you need further explanation or advice you should consult a solicitor.)

Case No

You have been [convicted of] [found not guilty by reason of insanity of] [found to be under a disability and to have done the act charged against you in respect of] a sexual offence covered by the Sex Offenders Act 1997. The details are set out in the Certificate of [Conviction] [Finding] which [is attached to this notice] [will be sent to you].

This means that you are now required by law to:

- **Notify the police** within the next 14 days (or, if you are in custody, within 14 days after your release) of your name, any other names you use, your date of birth and your home address (ie your sole or main residence in the UK or, if you have no such residence, any premises in the UK which you regularly visit).
- **Notify the police** of any change of name or home address within 14 days after the date of the change.
- **Notify the police** of any address in the UK where you reside or stay longer than 14 days. This means either 14 days at a time, or a total of 14 days in any 12 month period.

You can give this notification either by going to a police station in the police area in which your home is situated and giving it in person or by sending notification in writing to a police station in that area. This requirement to give notice applies even if you are already registered as a result of an earlier requirement. If you don't know which police area your home is situated in, or which police stations are in that area, then ask at **any** police station.

These requirements apply to you from [date of conviction or finding] and shall continue to apply [for 5 years] [for 7 years] [for 10 years] [indefinitely].

If you fail to comply with these requirements without a reasonable excuse, or give the police false information you could be fined, or sent to prison for up to 6 months, or both.

SCHEDULE 3

Paragraph 2(4)(b)

FORM 27.5 Form of notice under section 16B(4) of the Criminal Law (Consolidation) (Scotland) Act 1995

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[IN THE HIGH COURT OF JUSTICIARY]

[IN THE SHERIFF COURT]

AT *(place)*

NOTICE

by

[A.B.] *(address)* **[or Prisoner in the Prison of** *(place)***]**

under

Section 16B(4) of the Criminal Law (Consolidation) (Scotland) Act 1995

To: *(name of prosecutor or co-accused)*

I HEREBY GIVE NOTICE under subsection (4) of section 16B of the Criminal Law (Consolidation) (Scotland) Act 1995 that on the facts as alleged with respect to the act described in the charge against me, the condition in subsection (1)(a) of that section is not satisfied for the following reason[s]:

(here set out reason[s] for regarding condition as unsatisfied)

I HEREBY REQUIRE *(insert name and designation of prosecutor)* to prove that the said condition is satisfied.

(Signed)

[A.B.]

[or Solicitor for [A.B.]]

(Address and telephone number of Solicitor)

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules in order to provide firstly, a form of certificate for the purposes of Part I of the Sex Offenders Act 1997 and a form of notice (to be given to the accused with, or in advance of his being given, a copy of that certificate) as to the requirements of section 2 of that Act; and secondly a form of notice to be served on the prosecutor by a person accused of a sexual offence if that person disputes that an act done by him in a country or territory outside the United Kingdom constituted an offence under the law in force in that country or territory.

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