

2004 No. 481

HIGH COURT OF JUSTICIARY

SHERIFF COURT

DISTRICT COURT

**Act of Adjournal (Criminal Procedure Rules Amendment No. 5)
(Miscellaneous) 2004**

Made - - - - - *5th November 2004*

Coming into force - - - - - *26th November 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(a), 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) (Miscellaneous) 2004 and shall come into force on 26th November 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(b) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 8A.2(1) (further pre-trial diet) for “72F(3)” there shall be substituted “72F(5)”.

(3) In rule 13A.1 (citation of witnesses for precognition) for “of this Act” there shall be substituted “of the Act”.

(4) After rule 20.19 (reduction of disqualification period for drink-drive offenders) there shall be inserted the following:—

“Antisocial behaviour orders

20.20. An antisocial behaviour order made under section 234AA of the Act of 1995(c) shall be in Form 20.20.”.

(5) After Chapter 46 (parental directions under the Sexual Offences Act 2003), there shall be inserted the following:—

(a) 1995 c.46.

(b) S.I. 1996/513, last amended by S.S.I. 2004/434.

(c) Section 234AA was inserted by section 118 of the Antisocial Behaviour etc. (Scotland) Act 2004 asp.8.

“CHAPTER 47

PROTECTION OF CHILDREN (SCOTLAND) ACT 2003

References under the Protection of Children (Scotland) Act 2003

47.1. Where section 10(5) of the Protection of Children (Scotland) Act 2003(a) applies, the clerk of court shall forthwith—

- (a) post a notice of reference in Form 47.1; and
 - (b) transmit, by facsimile or other electronic means, a copy of that notice, to the Scottish Ministers.”.
- (6) In the appendix—
- (a) in the heading for Form 13A.1–A (form of citation of witness for precognition) for “Form 13A.1–A” there shall be substituted “Form 13A.1”;
 - (b) after Form 20.19–B there shall be inserted the form set out in Part 1 of the Schedule to this Act of Adjournal;
 - (c) at the end there shall be inserted the form set out in Part 2 of the Schedule to this Act of Adjournal.

Edinburgh
5th November 2004

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

(a) 2003 asp 5. Section 10 was amended by section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (2004 asp 5).

SCHEDULE

PART 1

Paragraph 2(4)

Rule 20.20

Form 20.20

Form of antisocial behaviour order under section 234AA of the Criminal Procedure (Scotland) Act 1995

ANTISOCIAL BEHAVIOUR ORDER

under section 234AA of the Criminal Procedure (Scotland) Act 1995

COURT:

DATE:

OFFENDER:

Address:

Date of Birth:

THE COURT, being satisfied under section 234AA(2)(d) that the making of an antisocial behaviour order is necessary;

AND the court having explained to the offender the effect of this order (including the requirements set out below) and that if he or she, without reasonable excuse, does anything that the order to which he or she is subject prohibits him or her from doing, shall be guilty of an offence, and that the court has the power to revoke or vary the order on the application of the offender subject to the order;

ORDERS that the offender shall for (*specify period*) from the date of this order be prohibited from (*specify prohibitions imposed*)

(i)

(ii)

(iii)

(Signed)

Clerk of Court

Copy: Offender

Local Authority.

PART 2

Form 47.1

Paragraph 2(5)

Rule 47.1

Form of notice of reference under section 10(5) of the Protection of Children (Scotland) Act 2003

Reference number: *(specify)*

To: The Scottish Ministers

TAKE NOTICE that the case of the individual named below is referred to you by the court under section 10(5) of the Protection of Children (Scotland) Act 2003.

That is because—

- the individual named below has been convicted of an offence against a child;
- on convicting that individual, the court proposed to refer the case of that individual to you, the Scottish Ministers; and
- either—
 - (a) the period during which an appeal against that proposed reference might have been brought has expired without an appeal being brought; or
 - (b) an appeal against the proposed reference was brought within that period but the appeal has now been dismissed or abandoned.

Name of individual: *(name and any known aliases)*

Address: *(specify last known address)*

Date of birth: *(date)*

Court: *(specify)*

Date of conviction: *(date)*

Offence(s): *(specify)*

Date of offence(s): *(date)*

(Signed)

Depute Clerk of Justiciary [*or* Sheriff Clerk Depute]

Date: *(date)*

Telephone number: *(specify)*

E-mail address: *(specify)*

EXPLANATORY NOTE

(This note is not part of the Order)

This Act of Adjournal makes various amendments to the Criminal Procedure Rules 1996 (S.I. 1996/513) (“the 1996 Rules”).

Some minor and consequential amendments are made in paragraph 2(2) and (3).

Paragraph 2(4) prescribes a form of Antisocial Behaviour Order.

Paragraph 2(5) provides for the transmission of a reference for a person to be included on a list of persons considered unsuitable to work with children to the Scottish Ministers after conviction of an offence against a child and prescribes a form of notice of reference.

Paragraph 2(6) makes a minor and consequential amendments to one of the forms set out in the Appendix to the 1996 Rules and sets out a new form of antisocial behaviour order and form of reference under the Protection of Children (Scotland) Act 1995.

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