

2005 No. 472

HIGH COURT OF JUSTICIARY

SHERIFF COURT

**Act of Adjournal (Criminal Procedure Rules Amendment No. 5)
(Sexual Offences Prevention Orders) 2005**

Made - - - - - *27th September 2005*

Coming into force - - - - - *7th October 2005*

The Lord Justice General, the Lord Justice Clerk and 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, 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. 5) (Sexual Offences Prevention Orders) 2005 and shall come into force on 7th October 2005.

(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) At the end there shall be inserted the following:

“CHAPTER 48

PROTECTION OF CHILDREN AND PREVENTION OF SEXUAL OFFENCES
(SCOTLAND) ACT 2005(c)

Interpretation

48.1. In this Chapter “sexual offences prevention order” means a sexual offences prevention order made where subsection (2) or (3) of section 104 of the Sexual Offences Act 2003(d) applies.

(a) 1995 c.46.
(b) S.I. 1996/513, last amended by S.S.I 2005/457.
(c) 2005 asp 9.
(d) 2003 c.42.

Sexual offences prevention orders

48.2. A sexual offences prevention order shall be in Form 48.2.

Variation, renewal or discharge of sexual offences prevention orders

48.3. An application for the variation, renewal or discharge of a sexual offences prevention order shall be made by petition in Form 48.3.”

(3) In the appendix, at the end there shall be inserted the forms set out in the Schedule to this Act of Adjournal.

Edinburgh
27th September 2005

Cullen of Whitekirk
Lord Justice General

I.P.D.

SCHEDULE

Paragraph 2(3)

FORM 48.2

Rule 48.2

Form of sexual offences prevention order SEXUAL OFFENCES PREVENTION ORDER

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

THE COURT, dealing with the offender in respect of an offence listed at paragraphs 36-60 of Schedule 3 to the Sexual Offences Act 2003, [*or*, dealing with the offender in respect of a finding that he is not guilty of an offence listed in Schedule 3 to the Sexual Offences Act 2003 by reason of insanity] [*or*, dealing with the offender in respect of a finding that the offender is under a disability and has done the act charged against him in respect of an offence listed in Schedule 3 to the Sexual Offences Act 2003], namely the offence(s) of (*specify*);

AND being satisfied that it is necessary for the purposes of protecting the public or any particular member of the public from serious sexual harm from the offender;

ORDERS that the offender shall for (*specify period of not less than 5 years*) from the date of this order be prohibited from (*specify in numbered paragraphs the prohibitions imposed*).

Signed

Clerk of Court

Form of petition for variation, renewal or discharge of a sexual offences prevention order
UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, THE LORD JUSTICE
CLERK, and LORDS COMMISSIONERS OF JUSTICIARY

[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)]

AT (*place*)

PETITION

of

HER MAJESTY'S ADVOCATE

[or [A.B.] (*address*)]

[or Prisoner at the Prison of (*place*)]

PETITIONER

HUMBLY SHEWETH:

1. That there is annexed to this petition a copy of the sexual offences prevention order which was made by the sheriff at (*place*) [or by the High Court sitting at (*place*)] on (*date*).
- [2. That the sexual offences prevention order has been varied or renewed as follows:- (*specify details of any previous variation or renewal*).]
2. That the petitioner seeks to renew [or discharge] [or vary] the sexual offences prevention order for the following reasons:- (*here state reasons*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]:

- (1) to appoint intimation of this petition to be made to [A.B.] [or Her Majesty's Advocate];
- (2) to appoint parties to be heard thereon on the earliest practicable date thereafter; and
- (3) thereafter, on being duly satisfied, to make an order renewing [or discharging] [or varying] the sexual offences prevention order [by] (*here state the terms of the variation of direction sought*) and to do further and otherwise as to your Lordship[s] [or to the court] shall seem proper.

ACCORDING TO JUSTICE, etc.

(*Signed*)

Prosecutor [or]

[Solicitor for [A.B.]]

(*address, e-mail 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 1996 (S.I. 1996/513) to make provision consequential upon the application of provisions of the Sexual Offences Act 2003 (c. 42) to Scotland by the Protection of Children and Prevention of Sexual Offences Act 2005 (asp 9). In particular, new rules are inserted to provide a form of Sexual Offences Prevention Order and a procedure for applying for the variation, renewal or discharge of such an order.

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