
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 495

**Act of Adjournal (Criminal Procedure Rules
Amendment No. 5) (Miscellaneous) 2007**

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 5) (Miscellaneous) 2007 and shall come into force on 1st December 2007.

(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(1) are amended in accordance with subparagraphs (2) to (4).

(2) After rule 15.16 (presentation of solemn sentence appeal in writing) insert—

“Lodging and intimation of transcripts

15.17.—(1) This rule applies where a party intends to rely upon a transcript of a record made under section 93(1) of the Act of 1995 (record of trial) in any appeal under section 106 or 108 of that Act.

(2) The party shall lodge 4 copies of the transcript or any relevant part thereof with the Clerk of Justiciary in accordance with paragraphs (3) and (4) and shall at the same time send a copy to the other parties.

(3) Where a procedural hearing has been fixed the party shall lodge the copies not later than 7 days before the date of that hearing.

(4) Where no procedural hearing has been fixed the party shall lodge the copies not later than 21 days before the date of the hearing at which he intends to rely upon the transcript.

(5) Where a party has not complied with the requirements of paragraphs (3) and (4) he shall not, except by leave of the court on cause shown, be permitted to refer to such transcript in the course of any hearing.”.

(3) After Chapter 51 (animal health and welfare)(2) insert—

“CHAPTER 52

INVESTIGATION OF REVENUE AND CUSTOMS OFFENCES

Interpretation

52.1. In this Chapter—

“the 1995 Act” means the Criminal Law (Consolidation) (Scotland) Act 1995(3);

(1) S.I.1996/513, last amended by S.S.I 2007/361.

(2) Chapter 51 was inserted by S.S.I. 2007/238.

(3) 1995 c. 39.

“authorised officer” shall have the same meaning as in section 26B(1) of the 1995 Act(4).

Production orders

52.2.—(1) An application by an authorised officer for a production order under section 23B(1) of the 1995 Act(5) shall be by petition in Form 52.2.

- (2) A production order shall specify the period within which—
- (a) the haver must fulfil the requirements of the production order; and
 - (b) the production order must be served on the haver by the authorised officer.

Revenue and Customs warrants

52.3. An application by an authorised officer for a Revenue and Customs warrant under section 23E(1) of the 1995 Act shall be by petition in Form 52.3.

Applications for variation, discharge or failure to comply with sections 23F or 23G

52.4.—(1) An application under section 23C(2) of the 1995 Act for an order to vary or discharge a production order shall be by minute in Form 52.4-A.

(2) An application under section 23H(2) of the 1995 Act for an order that there has been a failure to comply with requirements of sections 23F or 23G shall be by minute in Form 52.4-B.

(3) A minute under paragraph (1) or (2) shall be lodged with the clerk of court.

(4) On receipt of a minute under paragraph (1) or (2) the court shall make an order endorsed on the minute—

- (a) fixing a diet for the hearing of the minute; and
- (b) for service of the minute with the date of the diet on all relevant persons.

(5) For the purpose of paragraph (4)(b), the relevant persons are—

- (a) in the case of an application under paragraph (1), every other person who is entitled, by virtue of that section, to apply for variation or discharge of the order;
- (b) in the case of an application under paragraph (2)—
 - (i) the officer in respect of whose alleged failure the order is sought; and
 - (ii) every other person who is entitled by virtue of section 23H(3) to apply for an order under section 23H(4) in respect of the alleged failure in question.

(6) Where an order mentioned in paragraph (1) or (2) is made at a hearing fixed under paragraph (4) it shall be intimated by the clerk of court to all parties unless the party was present at the hearing at which the order was made.”.

(4) In the appendix—

- (a) in Form 22.1A (vulnerable witness application)(6)—
 - (i) after paragraph 1 insert—

“[or, where the vulnerable witness application is lodged for the purposes of proceedings under section 210C(7) of the Criminal Procedure (Scotland) Act 1995(7) (objection to risk assessment report etc.) 1. That on (date) the High

(4) Section 26B was inserted by paragraph 7 of Schedule 23 to the Finance Act 2007 c. 11.

(5) Sections 23B, 23C, 23D, 23F, 23G and 23H were inserted by paragraph 3 of Schedule 23 to the Finance Act 2007 c. 11.

(6) Form 22.1A was inserted by S.S.I. 2006/76.

(7) Section 210C was inserted by section 1 of the Criminal Justice (Scotland) Act 2003 (asp 7).

Court of Justiciary sitting at (*place*) made a risk assessment order [*or* an interim compulsion order] in respect of [A.B.]”;

(ii) after paragraph 2 insert–

“[*or, where the vulnerable witness application is lodged for the purposes of proceedings under section 210C(7) of the Criminal Procedure (Scotland) Act 1995 (objection to risk assessment report etc.)* 2. That [A.B.] was convicted of (*specify*), which is an offence to which section 288C of the Criminal Procedure (Scotland) Act 1995 applies [*or* and an order has been made under section 288F(2) of the Criminal Procedure (Scotland) Act 1995]”;

(iii) at the end of paragraph 3 insert–

“[*or, proceedings under section 210C(7) of the Criminal Procedure (Scotland) Act 1995*]”;

(b) after Form 51.6 (termination or variation of disqualification order)(8) insert the forms set out in the Schedule to this Act of Adjournal.

Edinburgh
1st November 2007

A C HAMILTON
Lord Justice General, I.P.D.