
EXPLANATORY NOTE

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

This Act of Adjournal amends the Act of Adjournal (Criminal Procedure Rules) 1996 (“the Criminal Procedure Rules”) in consequence of the establishment of the Sheriff Appeal Court by the Courts Reform (Scotland) Act 2014 (“the 2014 Act”).

In particular, paragraph 2 modifies Chapter 19 of the Criminal Procedure Rules in consequence of section 118 of and schedule 3 to the 2014 Act. Section 118(1) transfers to the Sheriff Appeal Court the powers and jurisdiction of the High Court of Justiciary so far as relating to appeals from summary criminal proceedings, with schedule 3 making detailed textual amendments to the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”). Accordingly, paragraph 2 makes the necessary modifications to the Criminal Procedure Rules.

Paragraph 3 inserts two new Chapters 19D (referral of point of law for opinion of the High Court of Justiciary) and 19E (appeals to High Court of Justiciary) into the Criminal Procedure Rules. Chapter 19D specifies the procedure to be followed in relation to references from the Sheriff Appeal Court to the High Court of Justiciary under section 175A of the 1995 Act (as inserted by section 120 of the 2014 Act). Chapter 19E makes provision about the procedure to be followed where an appeal is taken to the High Court of Justiciary under section 194ZB of the 1995 Act (as inserted by section 119 of the 2014 Act) against a decision of the Sheriff Appeal Court.

Paragraph 4 makes miscellaneous amendments to other provisions of the Criminal Procedure Rules in consequence of modifications to the 1995 Act made by schedule 3 to the 2014 Act, as well as further modifications made by the Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015.

Paragraph 5 modifies various Forms in the Appendix to the Criminal Procedure Rules. It also inserts new Forms referred to in new Chapters 19D and 19E as inserted by paragraph 3.

Paragraph 6 makes saving provisions so that the Rules as they applied immediately before 22nd September 2015 continue to apply to various proceedings in the High Court of Justiciary which commenced before that date. In particular, paragraph 6(1) disapplies various provisions in relation to appeals from summary criminal proceedings made to the High Court of Justiciary before 22nd September 2015. Paragraph 6(2) similarly provides that the amendments made by paragraph 4(2) do not apply to bail appeals made to the High Court of Justiciary before 22nd September 2015. Paragraph 6(3) also provides that paragraph 4(6) does not apply to bills of advocacy, bills of suspension or petitions to the nobile officium where a first order for service was sought from the High Court of Justiciary before 22nd September 2015. Paragraph 6(4) makes similar provision in respect of a number of applications made to the High Court of Justiciary before 22nd September 2015.