
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 144

**Act of Adjournal (Criminal Procedure Rules
1996 Amendment) (Miscellaneous) 2017**

Citation and commencement, etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2017.

(2) Subject to paragraph (3), this Act of Adjournal comes into force on 29th May 2017.

(3) Paragraph 2(4) and (8)(h) come into force on 28th August 2017.

(4) A certified copy is to be inserted in the Books of Adjournal.

Amendment of the Criminal Procedure Rules 1996

2.—(1) The Criminal Procedure Rules 1996(1) are amended in accordance with this paragraph.

(2) In Chapter 5 (judicial examination)—

(a) in rule 5.1 (procedure in examination) for “section 35 to 39” substitute “sections 35 and 39”; and

(b) omit rules 5.3 (verbatim record) to 5.10 (alteration of time limits by High Court).

(3) In Chapter 9 (first diets (sheriff court))(2)—

(a) after rule 9.3 (orders for further diets under section 71 of the Act of 1995) insert—

“Written record of state of preparation

9.3A.—(1) A written record referred to in section 71C of the Act of 1995 (written record of state of preparation: sheriff court)(3) shall be in Form 9.3A.

(2) A written record under paragraph (1) must be lodged no later than two court days before the first diet and may be lodged by electronic means.”;

(b) in rule 9.4 (procedure at first diet)—

(i) in paragraph (2)(b) omit “, and”; and

(ii) at the end of paragraph (2)(c) insert—

“; and

(d) the date appointed for the trial diet.”; and

(c) in rule 9.7(1) (procedure on lodging note of appeal) after “he shall” insert “, in those cases where leave to appeal is required.”.

(1) The Criminal Procedure Rules 1996 are in schedule 2 of the Act of Adjournal (Criminal Procedure) 1996 (S.I. 1996/513, last amended by S.I. 2016/300).

(2) Chapter 9 was substituted by S.I. 2005/44.

(3) Section 71C was inserted by section 80(3) of the Criminal Justice (Scotland) Act 2016 (2016 asp 1).

(4) In Chapter 12 (adjournment and alteration of diets in solemn proceedings)(4), in rule 12.7 (floating diets in the High Court of Justiciary)—

(a) in the cross-heading after “**Justiciary**” insert “**and continued diets in the sheriff court**”;

(b) after paragraph (1) insert—

“(1A) A minute referred to in section 83B of the Act of 1995 (continuation of trial diet in the sheriff court)(5) shall be in Form 12.7.”; and

(c) in paragraph (2) after “floating diet” insert “in the High Court or continued diet in the sheriff court”.

(5) In Chapter 15 (appeals from solemn proceedings), in rule 15.8(1) (clerk to give notice of date of hearing) for “or of an application under section 111(2) of the Act of 1995 (application to extend time)” substitute “, or fixes the date for a hearing in chambers of an application under section 111(2) of the Act of 1995 (application to extend time) and makes a direction under section 111(4) of the Act of 1995 (parties to be present)(6)”.

(6) In Chapter 19B (Scottish Criminal Cases Review Commission)(7), in rule 19B.1 (references) omit paragraph (3)(a).

(7) In Chapter 20 (sentencing), in rule 20.23(2) (supervision default orders)(8) for “256AC(1)(a)” substitute “256AC(4)(c)”.

(8) In the Appendix—

(a) in Form 5.2 (form of record of proceedings at judicial examination)—

(i) omit from “*The accused intimated he did not desire to emit a declaration” to “was terminated at (*time*).”; and

(ii) omit “*Delete whichever is not appropriate”;

(b) omit Forms 5.6-A to 5.8 (judicial examination);

(c) in Forms 8.2-A, 8.2-B and 8.2-C (forms of citation and notice to appear)(9), before “**IF YOU DO NOT ATTEND THE COURT A WARRANT MAY BE ISSUED FOR YOUR ARREST**” insert “**IF YOU DO NOT ATTEND THE COURT THE FIRST DIET MAY PROCEED IN YOUR ABSENCE.**”;

(d) in Forms 8.2-A, 8.2-B, 8.2-C, 8.2-G and 8.2-H (forms of citation and notice to appear)(10), omit “**and on (*date*) at (*time*)** for a trial diet”;

(e) in Form 9.1 (form of minute of notice under section 71(2) of the Criminal Procedure (Scotland) Act 1995)(11), in paragraph 1—

(i) omit “for trial”; and

(ii) where it first occurs, omit “on (*date*)”;

(f) after Form 9.1 insert Form 9.3A (joint written record of state of preparation) in the schedule of this Act of Adjournal;

(g) in Forms 9.6 and 9A.7 (forms of note of appeal)(12), for paragraph 5 substitute—

“[5. That the court granted leave to appeal to the High Court of Justiciary against that decision.] (*delete if not applicable*)”;

(4) Chapter 12 was substituted by [S.S.I. 2005/44](#).

(5) Section 83B was inserted by section 81(6) of the Criminal Justice (Scotland) Act 2016 ([2016 asp 1](#)).

(6) Section 111(4) was inserted by section 90(6) of the Criminal Justice (Scotland) Act 2016 ([2016 asp 1](#)).

(7) Chapter 19B was inserted by [S.S.I. 2003/468](#) and substituted by [S.S.I. 2010/418](#).

(8) Rule 20.23(2) was inserted by [S.S.I. 2016/300](#).

(9) Forms 8.2-A and 8.2-B were substituted by [S.S.I. 2005/44](#). Form 8.2-C was substituted by [S.S.I. 2005/188](#).

(10) Form 8.2-G was amended by [S.S.I. 2011/194](#). Form 8.2-H was substituted by [S.S.I. 2005/44](#) and amended by [S.S.I. 2011/194](#).

(11) Form 9.1 was substituted by [S.S.I. 2005/44](#).

(12) Form 9.6 was substituted by [S.S.I. 2005/44](#). Form 9A.7 was inserted by [S.S.I. 2005/44](#).

- (h) in the heading of Form 12.7 (form of minute of continuation of a floating trial diet in the High Court of Justiciary)(**13**) after “*Justiciary*” insert “*or a continued diet in the sheriff court*”;
- (i) in Form 15.2-C (form of application for extension of time under section 111(2) of the Criminal Procedure (Scotland) Act 1995)(**14**) after “*as the case may be*” insert “**OR**fully state the reasons for the expected failure to lodge timeously the intimation of intention to appeal or note of appeal as the case may be”; and
- (j) in Form 20.10A (form of non-harassment order made under section 234A of the Criminal Procedure (Scotland) Act 1995)(**15**)—
 - (i) for “OFFENDER” substitute “PERSON AGAINST WHOM THE ORDER IS SOUGHT”;
 - (ii) after “THE COURT,” insert “[”;
 - (iii) for “offender” where it occurs substitute “person against whom the order is sought”; and
 - (iv) after “person;” insert “**OR** having acquitted the person against whom the order is sought of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995; **OR** having found the person against whom the order is sought to be unfit for trial in respect of such an offence under section 53F of the Criminal Procedure (Scotland) Act 1995 and having determined that the person has done the act or made the omission constituting the offence;]”.

Edinburgh
8th May 2017

CJM SUTHERLAND
Lord Justice General
I.P.D.

(13) Form 12.7 was substituted by [S.S.I. 2005/44](#).

(14) Form 15.2-C was amended by [S.S.I. 2010/418](#).

(15) Form 20.10A was substituted by [S.S.I. 2011/290](#).