

**2017 No. 429**

**SHERIFF APPEAL COURT**

**SHERIFF COURT**

**Act of Adjournal (Criminal Procedure Rules 1996 Amendment)  
(No. 5) (Proceeds of Crime etc.) 2017**

<i>Made</i>	- - - -	<i>5th December 2017</i>
<i>Laid before the Scottish Parliament</i>		<i>7th December 2017</i>
<i>Coming into force</i>	- -	<i>21st December 2017</i>

The High Court of Justiciary makes this Act of Adjournal under the powers conferred by section 305 of the Criminal Procedure (Scotland) Act 1995(a), section 22E(5) of the Terrorism Act 2000(b), sections 336B(7) and 339ZK(5) of the Proceeds of Crime Act 2002(c), and all other powers enabling it to do so.

**Citation and commencement, etc.**

**1.**—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No. 5) (Proceeds of Crime etc.) 2017.

(2) It comes into force on 21st December 2017.

(3) 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(d) are amended in accordance with this paragraph.

(2) In Chapter 37AA (proceedings under the Proceeds of Crime Act 2002)(e)—

(a) in rule 37AA.1 (interpretation of this Chapter)—

(i) after the definition of “the 2014 Regulations” insert—

““appropriate person” has the meaning given by section 412 (interpretation)(f) of the Act of 2002;” and

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- (a) 1995 c.46. Section 305 was amended by section 111(1) of the Criminal Procedure (Scotland) Act 2016 (asp 1) and by S.S.I. 2015/338, and was extended by section 36A(4) of the Serious Crime Act 2007 (c.27) and section 32(5) of the Psychoactive Substances Act 2016 (c.2).
- (b) 2000 c.11. Section 22E was inserted by section 37 of the Criminal Finances Act 2017 (c.22) (“the 2017 Act”).
- (c) 2002 c.29. Section 336B was inserted by section 10(4) of the 2017 Act and section 339ZK was inserted by section 12 of that Act.
- (d) The Criminal Procedure Rules 1996 are in schedule 2 of the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513), last amended by S.S.I. 2017/298.
- (e) Chapter 37AA was inserted by S.S.I. 2003/120 and last amended by S.S.I. 2016/103.
- (f) Section 412 was relevantly amended by schedule 10, paragraph 23(2) of the Serious Crime Act 2007 (c.27).

- (ii) after the definition of “compliance order” insert—
  - ““interested person” and “senior officer” have the meanings given by section 336D (sections 336A to 336C: interpretation) of the Act of 2002(a);
  - “relevant person” has the meaning given by section 339ZH(12) (further information orders) of the Act of 2002(b).”;
- (b) in rule 37AA.10 (application, discharge and variation)—
  - (i) at the end of paragraph (1)(a) omit “and”; and
  - (ii) after paragraph (1)(a) insert—
    - “(aa) by the senior officer to the sheriff under the following provisions of the Act of 2002—
      - (i) section 336A(1) (extension of moratorium period)(c);
      - (ii) section 336B(4) (order to withhold specified information);
    - (ba) by the relevant person to the sheriff under section 339ZH(1) (further information orders)(d); and”;
- (c) after rule 37AA.10 insert—

### “Appeal to the Sheriff Appeal Court

**37AA.11.**—(1) An appeal to the Sheriff Appeal Court under section 336B(8) (proceedings under section 336A: supplementary) of the Act of 2002 is to be made by lodging a note of appeal in Form 37AA.11-A.

(2) When an appeal is lodged, the court must—

- (a) order intimation of the appeal to—
  - (i) the senior officer and any interested person other than the appellant, where an interested person is the appellant; or
  - (ii) any interested person, where the senior officer is the appellant; and
- (b) appoint a hearing on the appeal.

(3) An appeal to the Sheriff Appeal Court under section 339ZJ(1) (appeals) of the Act of 2002(e) is to be made by lodging a note of appeal in Form 37AA.11-B.

(4) When an appeal is lodged the court must—

- (a) order intimation of the appeal to—
  - (i) the procurator fiscal and any other person who was a party to the proceedings on the application, where a respondent to the proceedings on the application is the appellant; or
  - (ii) any respondent to the proceedings on the application, where the procurator fiscal is the appellant; and
- (b) appoint a hearing on the appeal.”.

(3) In Chapter 43 (Terrorism Act 2000 and Anti-Terrorism, Crime and Security Act 2001)(f)—

- (a) in rule 43.1(1) (interpretation)—
  - (i) omit “and” where it first occurs; and
  - (ii) at the end of the definition of “the Act of 2001” insert—
    - “; and

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(a) Section 336D was inserted by section 10(4) of the Criminal Finances Act 2017 (c.22) (“the 2017 Act”).  
 (b) Section 339ZH was inserted by section 12 of the 2017 Act.  
 (c) Sections 336A and 336B were inserted by section 10(4) of the Criminal Finances Act 2017 (c.22) (“the 2017 Act”).  
 (d) Section 339ZH was inserted by section 12 of the 2017 Act.  
 (e) Section 339ZJ was inserted by section 12 of the 2017 Act.  
 (f) Chapter 43 was inserted by SSI 2001/486 and last amended by S.S.I. 2002/136.

“law enforcement officer” has the meaning given by section 22B(14) (further information orders) of the Act of 2000(a).”;

(b) before paragraph (1)(a) of rule 43.2 (applications under the Act of 2000 or 2001) insert—

“(za) section 22B(1) (further information order) of the Act of 2000;”;

(c) after rule 43.2 insert—

#### **“Appeal to the Sheriff Appeal Court**

**43.3.**—(1) An appeal to the Sheriff Appeal Court under section 22D(1) (appeals) of the Act of 2000 is to be made by lodging a note of appeal in Form 43.3.

(2) When an appeal is lodged, the court must—

(a) order intimation of the appeal to—

(i) the law enforcement officer and any other person who was a party to the proceedings on the application, where a respondent to the proceedings on the application is the appellant; or

(ii) any respondent to the proceedings on the application, where the law enforcement officer is the appellant; and

(b) appoint a hearing on the appeal.”.

(4) In the appendix—

(a) after Form 37AA.5D-B (form of timetable order)(b) insert Forms 37AA.11-A and 37AA.11-B set out in the schedule of this Act of Adjournal; and

(b) after Form 42.2 (Convention Rights (Compliance) (Scotland) Act 2001)(c) insert Form 43.3 set out in the schedule of this Act of Adjournal.

*CJM SUTHERLAND*  
Lord Justice General  
I.P.D.

Edinburgh  
5th December 2017

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(a) Sections 22B to 22E were inserted by section 37 of the Criminal Finances Act 2017 (c.22).  
(b) Form 37AA.5D-B was inserted by S.S.I. 2009/244 and amended by S.S.I. 2009/345.  
(c) Form 42.2 was inserted by S.S.I. 2001/469 and substituted by S.S.I. 2002/137.

SCHEDULE  
Form 37AA.11-A

Paragraph 2(4)

Rule 37AA.11(1)

Form of appeal against grant of, or refusal to grant, an extension to the moratorium  
period

UNTO THE HONOURABLE THE APPEAL SHERIFFS in the SHERIFF APPEAL COURT

NOTE OF APPEAL

under section 336B(8) of the Proceeds of Crime Act 2002

against [*grant of or refusal to grant*] an extension to the moratorium period under section 336A(1)  
of the Proceeds of Crime Act 2002

by

(*specify*)

(*address*)

APPELLANT

HUMBLY SHEWETH, that:

- 1 On (*date*) the Sheriff at (*place*) [*granted or refused to grant*] an extension to the moratorium period.
2. The appellant appeals against that decision on the following point of law:-  
  
(*specify*)

ACCORDING TO JUSTICE, ETC.

(*Signed*)

Appellant (*or agent for the appellant*)

Form 37AA.11-B

Rule 37AA.11(3)

Form of appeal against the making of, or the refusal to make, a further information order

UNTO THE HONOURABLE THE APPEAL SHERIFFS in the SHERIFF APPEAL COURT

NOTE OF APPEAL

under section 339ZJ(1) of the Proceeds of Crime Act 2002

against [*the making of or the refusal to make*] a further information order under section 339ZH(1) of the Proceeds of Crime Act 2002

by

(*specify*)

(*address*)

APPELLANT

HUMBLY SHEWETH, that:

- 1 On (*date*) the Sheriff at (*place*) [*made or refused to make*] a further information order.
- 2 The appellant appeals against that decision on the following grounds:-  
(*specify*)

ACCORDING TO JUSTICE, ETC.

(*Signed*)

Appellant (*or agent for the appellant*)

Form 43.3

Rule 43.3(1)

Form of appeal against the making of, or the refusal to make, a further information order

UNTO THE HONOURABLE THE APPEAL SHERIFFS in the SHERIFF APPEAL COURT

NOTE OF APPEAL

under section 22D(1) of the Terrorism Act 2000

against [*the making of or the refusal to make*] a further information order under section 22B(1) of the Terrorism Act 2000

by

(*specify*)

(*address*)

APPELLANT

HUMBLY SHEWETH, that:

- 1 On (*date*) the Sheriff at (*place*) [*made or refused to make*] a further information order.
- 2 The appellant appeals against that decision on the following grounds:-  
(*specify*)

ACCORDING TO JUSTICE, ETC.

(*Signed*)

Appellant (*or agent for the appellant*)

## **EXPLANATORY NOTE**

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

This Act of Adjournal amends Chapter 37AA (Proceeds of Crime) and Chapter 43 (Terrorism Act 2000 and Anti Terrorism, Crime and Security Act 2001) of the Criminal Procedure Rules 1996 in consequence of amendments made to the Proceeds of Crime Act 2002 (“the 2002 Act”) and the Terrorism Act 2000 (“the 2000 Act”) by the Criminal Finances Act 2017.

Paragraph 2(2)(b) provides that applications to extend the moratorium period, applications to withhold information and applications for further information orders are to be made by petition.

Paragraph 2(2)(c) sets out the procedure to be followed when an appeal is made to the Sheriff Appeal Court under section 336B(8) (proceedings under section 336A: supplementary) or 339ZJ(1) (appeals) of the 2002 Act.

Paragraph 2(3) sets out the procedure to be followed when an appeal is made to the Sheriff Appeal Court under section 22D(1) (appeals) of the 2000 Act.

Paragraph 2(4) makes provision for the forms to be used in making such appeals to the Sheriff Appeal Court.

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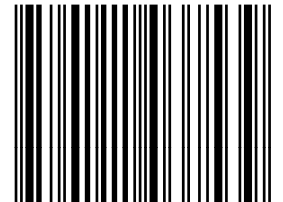
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£6.00

S201712061019 12/2017 19585

<http://www.legislation.gov.uk/id/ssi/2017/429>

ISBN 978-0-11-103753-9



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