

2003 No. 468

HIGH COURT OF JUSTICIARY

SHERIFF COURT

DISTRICT COURTS

**Act of Adjournal (Criminal Procedure Rules Amendment No.2)
(Miscellaneous) 2003**

Made - - - - - *26th September 2003*

Coming into force - - - - - *27th October 2003*

The Lord Justice General, the Lord Justice Clerk and the 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, 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.2) (Miscellaneous) 2003 and shall come into force on 27th October 2003.

(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 paragraphs.

(2) In rule 2.2(1) (citation in solemn proceedings) for “section 66” there shall be substituted “section 66(4)(a)”.

(3) Rule 2.3(2) (manner of citation of probationer) shall be omitted.

(4) In rule 2.6 (forms of execution of service)—

(a) after paragraph (1) there shall be inserted the following:—

“(1A) The execution of a citation of a person accused on indictment referred to in rule 8.2(1A) (citation of accused by affixing a notice) shall be in Form 2.6-AA.”;

(b) after paragraph (2) there shall be inserted the following:—

“(2A) The execution of a citation of an accused referred to in rule 16.1(2A) (citation of accused by affixing a notice) shall be in Form 2.6-BA.”; and

(a) 1995 c.46.

(b) S.I. 1996/513, last amended by S.S.I. 2003/387.

- (c) for paragraph (5) there shall be substituted the following:–
- “(5) The execution of a citation referred to in–
- (a) rule 20.3(2) or (3) (supervised release orders: form of citation of offender) shall be in Form 2.6-EA;
 - (b) rule 20.10(2) or (3) (probation orders: forms of citation of probationer) shall be in Form 2.6-EB;
 - (c) rule 20.11(3) or (4) (supervised attendance orders: forms of citation of offender) shall be in Form 2.6-EC;
 - (d) rule 20.12(2) (community service orders: forms of citation of offender) shall be in Form 2.6-ED;
 - (e) rule 20.12A(3) or (4) (restriction of liberty orders: forms of citation of offender) shall be in Form 2.6-EE; and
 - (f) rule 20.12B(2) or (3) (drug treatment and testing orders: forms of citation of offender) shall be in Form 2.6-EF.
- (5) In rule 3.1 (books of adjournal)–
- (a) for paragraphs (1)(a)(ii) and (1)(b)(ii) there shall be substituted the following:–
 - “(ii) the minute of proceedings prepared by the Clerk of Justiciary”; and
 - (b) in paragraph (3), for the word “summary” there shall be substituted the word “minute”.
- (6) In rule 8.2 (citation of accused and witnesses), after paragraph (1) there shall be inserted the following:–
- “(1A) The notice to be affixed to the door of the dwelling-house or place of business of a person accused on indictment for the purposes of section 66(4)(b) of the Act of 1995 (citation of accused by affixing a notice) shall be in Form 8.2-AA.”.
- (7) For rule 9.2 (intimation of minute) there shall be substituted the following:–
- “**9.2.** A minute mentioned in rule 9.1 shall be–
- (a) lodged with the clerk of court; and
 - (b) served on every other party,
- by the minuter.”.
- (8) In rule 16.1 (form of complaints and related notices and forms), after paragraph (2) there shall be inserted the following:–
- “(2A) The notice to be affixed to the door of the dwelling-house or place of business of an accused for the purposes of section 141(2A) of the Act of 1995 (citation of accused by affixing a notice) shall be in Form 16.1-BB.”.
- (9) Rule 19.18 (presentation of summary sentence appeal in writing) shall be numbered “19.19”.
- (10) After Chapter 19 (appeals from summary proceedings) there shall be inserted the following:–

“CHAPTER 19A

ADJOURNMENT BEFORE SENTENCE UNDER SECTION 201 OR DEFERRED
SENTENCE UNDER SECTION 202 OF THE ACT OF 1995

Power of clerk of Justiciary to alter place where case to be heard

- 19A.1.**—(1) Where the High Court has–
- (a) adjourned a case under section 201 of the Act of 1995; or
 - (b) deferred sentence in a case under section 202 of the Act of 1995,

the Clerk of Justiciary may make an order altering the place where the case is to be heard, not later than two days before the case is to be called.

- (2) The Clerk of Justiciary shall intimate an order made under paragraph (1) to—
- (a) the parties to the proceedings; and
 - (b) the governor of any institution in which the accused is detained,
- not later than two days before the case is to be called.

CHAPTER 19B

CASES REFERRED BY THE SCOTTISH CRIMINAL CASES REVIEW COMMISSION UNDER SECTION 194B OF THE ACT OF 1995

References in solemn proceedings

19B.1.—(1) This rule applies to a referral by the Scottish Criminal Cases Review Commission to the High Court in solemn proceedings under section 194B of the Act of 1995.

(2) Within eight weeks of the date of referral, the person who has been convicted shall lodge a note of appeal in Form 15.2-B with the Clerk of Justiciary and subsections (2) to (4) and (6) of section 110 of the Act of 1995 shall apply to the note.

(3) A note of appeal lodged under the preceding paragraph shall be treated as if leave to appeal in terms of section 107(1)(a) of the Act of 1995 has been granted.

References in summary proceedings

19B.2.—(1) This rule applies to a referral by the Scottish Criminal Cases Review Commission to the High Court in summary proceedings under section 194B of the Act of 1995.

(2) Where the Clerk of Justiciary receives a reference in summary proceedings, he shall—

- (a) assign the referral to a procedural hearing; and
- (b) as soon as possible thereafter, intimate the diet to every party and to the governor of any institution in which any accused is detained.

(3) At the procedural hearing the High Court may make directions as to the procedure to be followed in the determination of the referral.”.

- (11) For rule 20.3 (form of supervised release orders) there shall be substituted the following:—

“Supervised release orders

20.3.—(1) An order under section 209 of the Act of 1995 (supervised release orders) shall be in Form 20.3-A.

(2) The citation of an offender to appear before a court under section 15(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (variation of supervised release order etc.) shall be in Form 20.3-B.

(3) The citation of an offender to appear before a court under section 18(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (breach of supervised release order) shall be in Form 20.3-C.”.

- (12) In rule 20.10 (probation orders), at the end there shall be inserted the following:—

“(3) The citation of a probationer under paragraph 5(1) of Schedule 6 to the Act of 1995 (amendment of probation order) shall be in Form 20.10-C.”.

- (13) For rule 20.11 (form of supervised attendance orders) there shall be substituted the following:—

“Supervised attendance orders

20.11.—(1) A supervised attendance order made under section 235(1) of the Act of 1995 shall be in Form 20.11-A.

(2) A supervised attendance order made under section 236 of the Act of 1995 (supervised attendance orders in place of fines for 16 and 17 year olds) shall be in Form 20.11-B.

(3) The citation of an offender to appear before a court under paragraph 5(3) of Schedule 7 to the Act of 1995 (extension, variation and revocation etc. of supervised attendance orders) shall be in Form 20.11-C.

(4) The citation of an offender to appear before a court under paragraph 4(1) of Schedule 7 to the Act of 1995 (breach of requirement of or other provision relating to supervised attendance order) shall be in Form 20.11-D.”.

(14) For rule 20.12B (form and notification of drug treatment and testing orders) there shall be substituted the following:–

“Drug treatment and testing orders

20.12B.—(1) A drug treatment and testing order made under section 234B of the Act of 1995 shall be in Form 20.12B-A.

(2) The citation of an offender to appear before a court under section 234E(2) of the Act of 1995 (variation or revocation of drug treatment and testing order) shall be in Form 20.12B-B.

(3) The citation of an offender to appear before a court under section 234G(1) of the Act of 1995 (breach of drug testing and treatment order) shall be in Form 20.12B-C.”.

(15) In rule 37AA.9 (hearings under the Proceeds of Crime Act 2002), for each of “37.2”, “37.3”, “37.6”, “37.7”, “37.8” and “37.10” there shall be substituted “37AA.2”, “37AA.3”, “37AA.6”, “37AA.7”, “37AA.8” and “37AA.10” respectively.

(16) After Chapter 43 there shall be inserted the following:–

“CHAPTER 44

INTERNATIONAL CRIMINAL COURT ACT 2001

Interpretation of this Chapter

44.1 In this Chapter, “the Act of 2001” means the International Criminal Court Act 2001(a).

Consent to surrender

44.2 Consent to surrender given under section 7 of the Act of 2001 (consent to surrender) shall be in writing in Form 44.2.

Waiver of right to review

44.3 Waiver given under section 13 of the Act of 2001 (waiver of the right to review) shall be in writing in Form 44.3.

CHAPTER 45

FUR FARMING (PROHIBITION) (SCOTLAND) ACT 2002

Interpretation of this Chapter

45.1 In this Chapter, “the Act of 2002” means the Fur Farming (Prohibition) (Scotland) Act 2002(b).

Representations in forfeiture orders

45.2—(1) This rule applies where the Court is deciding whether to make a forfeiture order in terms of section 2 of the Act of 2002 (forfeiture orders).

(2) A person who wishes to make representations to the court under subsection (7) of section 2 of the Act of 2002 shall do so–

(a) in writing to the Clerk of Court, unless the court otherwise directs; and

(a) 2001 c.17.
(b) 2002 asp 10.

- (b) by such date as the court directs.”.
- (17) In the appendix–
- (a) Forms 3.1-A and 3.1-B shall be omitted;
 - (b) in Form 9.1 paragraph 3 shall be omitted;
 - (c) in each of Forms 10.1-A and 10.1-B, for the words beginning “Served” to the end, there shall be substituted the following:–
“(Signed)
 For Her Majesty’s Advocate
or Procurator Fiscal Depute”;
 - (d) at the end of each of Forms 15.2-A, 15.2-B, 15.2-D and 15.3-B, there shall be inserted the following:–

**“NOTE: THE PARTY LODGING THIS FORM MUST, IMMEDIATELY AFTER IT IS LODGED, INTIMATE IT TO:
 THE CROWN AGENT, THE CROWN OFFICE, 25 CHAMBERS STREET,
 EDINBURGH, EH1 1LA”;**
 - (e) Form 20.3 shall be numbered “20.3-A”;
 - (f) in Form 20.10-B (form of citation of probationer under section 232(1) or 233(1) of the Criminal Procedure (Scotland) Act 1995, for “Officer of Law [*or Clerk of Court*]” there shall be substituted “Clerk of Court”;
 - (g) in Form 20.12A-A (form of restriction of liberty order), after “OFFENDER’S NAME, ADDRESS AND DATE OF BIRTH:” there shall be inserted the following:–

*“OFFENDER’S TELEPHONE NUMBER (if available):
 (If a phone number is not available, specify how the number is to be provided).”;*
 - (h) in Form 20.12A-B (form of application to vary restriction of liberty order), for “Justices” there shall be substituted “Stipendiary Magistrates”;
 - (i) in Form 20.12A-C (form of citation of offender under section 245E(3) of the Criminal Procedure (Scotland) Act 1995) and Form 20.12A-D (form of citation of offender under section 245F(1) of the Criminal Procedure (Scotland) Act 1995) for “Advocate Depute [*or Procurator Fiscal*] On behalf of Her Majesty’s Advocate” there shall be substituted “Clerk of Court”;
 - (j) for Form 2.6-E (form of execution of service of citation on a probationer under section 232 or 233 of the Criminal Procedure (Scotland) Act 1995) there shall be substituted the forms set out in Schedule 1 to this Act of Adjournal;
 - (k) for Form 20.12-B (form of citation under section 239(4) or 240(3) of the Criminal Procedure (Scotland) Act 1995) there shall be substituted the form set out in Schedule 2 to this Act of Adjournal;
 - (l) Form 20.12B shall be numbered “20.12B-A”; and
 - (m) after Forms 2.6-A, 2.6-B, 8.2-A, 16.1-BA, 20.3-A, 20.3-B, 20.10-B, 20.11-B, 20.11-C, 20.12B-A, 20.12B-B, 42.2 and 44.2 respectively, there shall be inserted the forms set out in Schedule 3 to this Act of Adjournal.

Edinburgh
 26th September 2003

Cullen of Whitekirk
 Lord Justice General
 I.P.D.

SCHEDULE 1

Rule 2.6(5)(a)

FORM 2.6-EA

Form of execution of citation of offender under section 15(5) or 18(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering the application attached [*or the allegation set out in the written information attached*].

This I did by posting on (*date*) a citation in Form 20.3-A [*or Form 20.3-B*] to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court
[*or Officer of Law*]

Rule 2.6(5)(b)

FORM 2.6-EB

Form of execution of citation of probationer under section 232 or 233 of or paragraph 5(1) of Schedule 6 to the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of probationer*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering an allegation that he [*or she*] has failed to comply with a requirement of a probation order as set out in the attached written information [*or has been convicted by a Court in Great Britain of an offence committed during the probation period and has been dealt with for that offence*] [*or for the purpose of answering a proposal that his or her probation order be amended by the court*].

This I did by posting on (*date*) a citation in Form 20.10-B [*or Form 20.10-C*] to the probationer at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court
[*or Officer of Law*]

FORM 2.6-EC

Form of execution of citation of offender under paragraph 4(1) or 5(3) of Schedule 7 to the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering the application attached.

This I did by posting on (*date*) a citation in Form 20.11-C [*or Form 20.11-D*] to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court

[*or Officer of Law*]

FORM 2.6-ED

Form of execution of citation of offender under section 239(4) or 240(3) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering the application attached [*or the allegation set out in the written information attached*].

This I did by posting on (*date*) a citation in Form 20.12-B to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court

[*or Officer of Law*]

FORM 2.6-EE

Form of execution of citation of offender under section 245E(3) or 245F(1) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering the application attached [*or the allegation set out in the written information attached*].

This I did by posting on (*date*) a citation in Form 20.12A-C [*or Form 20.12A-D*] to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court

[*or Officer of Law*]

FORM 2.6-EF

Form of execution of citation of offender under section 234E(2) or 234G(1) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff [or District] Court at (address) on (date) at (time)*] for the purpose of answering the application attached.

This I did by posting on (*date*) a citation in Form 20.12B-B [*or Form 20.12B-C*] to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(Signed)

Clerk of Court

[*or Officer of Law*]

SCHEDULE 2

Rule 20.12(2)

FORM 20.12-B

**Form of citation of offender under section 239(4) or 240(3) of the Criminal Procedure
(Scotland) Act 1995**

IN THE HIGH COURT OF JUSTICIARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [*or* Sheriff [*or* District] Court] at (*address*) because it has been reported to the court that you have failed to comply with a requirement of the community service order made in respect of you on (*date*) as alleged in the written information attached [*or* by (*specify the failure alleged*)] [*or* because an application has been made by the local authority officer for the amendment or revocation of the community service order made in respect of you on (*date*). A copy of the application is attached [*or* (*specify nature of proposed amendment or nature of application*)].

**IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT
MAY ISSUE A WARRANT FOR YOUR ARREST**

(*Signed*)
Clerk of Court

SCHEDULE 3

Rule 2.6(1A)

FORM 2.6-AA

Form of execution of citation of accused by notice under section 66(4)(b) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION OF ACCUSED BY AFFIXING A NOTICE

I, *(name and designation)*, on *(date)* lawfully cited *(name and address of accused)* to appear for the diet of the High Court of Justiciary [*or Sheriff Court*] at *(place)* on *(date)*.

This I did by affixing a notice in Form 8.2-AA of the Criminal Procedure Rules 1996 to the door of the accused's dwelling-house [*or place of business*] at *(address)*.

(Signed)

Witness

(Signed)

Constable

Rule 2.6(2A)

FORM 2.6-BA

Form of execution of citation of accused by notice under section 141(2A) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION OF ACCUSED BY AFFIXING A NOTICE

I, *(name and designation)* on *(date)* lawfully cited *(name and address of accused as in complaint)* to appear before the Sheriff [*or District*] Court at *(address)* on *(date)* at *(time)* to answer to a complaint at the instance of the procurator fiscal charging him with *(state offence)*.

This I did by affixing a notice in Form 16.1-BB of the Criminal Procedure Rules 1996 to the door of the accused's dwelling-house [*or place of business*] at *(address)*.

(Signed)

Officer of Law

FORM 8.2-AA

Form of notice of citation to be affixed to the door of the accused's dwelling-house or place of business under section 66(4)(b) of the Criminal Procedure (Scotland) Act 1995

HER MAJESTY'S ADVOCATE

Against

(name of accused), residing at *(address)*

To: *(name of accused)*

TAKE NOTICE THAT by virtue of the affixing of this notice you are cited in respect of the above.

You may collect a copy of the indictment and a list of the witnesses to be adduced by the prosecution, from *(name of police station)* Police Station at *(address)*.

YOU MUST APPEAR at *(place)* High Court of Justiciary *(address)* on *(date)* at *(time)* for a diet of trial [*or Sheriff Court (address) on (date) at (time) for a first diet and on (date) at (time) for a trial diet*] at which you will be required to answer the indictment.

IF YOU DO NOT ATTEND AT COURT AT THIS HEARING, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

This notice was affixed by me *(name and designation)* on *(date)*

(signed)

Witness

(signed)

Constable

FORM 16.1-BB

Form of notice of citation to be affixed to the door of the accused's dwelling-house or place of business under section 141(2A) of the Criminal Procedure (Scotland) Act 1995

PROCURATOR FISCAL AT *(PLACE)*

Against

(name of accused), residing at *(address)*

To: *(name of accused)*

TAKE NOTICE THAT by virtue of the affixing of this notice you are cited in respect of the above.

You may collect a copy of the complaint and your citation in Form 16.1-B of the Criminal Procedure Rules 1996 [and a notice specifying your previous convictions] from *(name of police station)* Police Station at *(address)*.

Your case will be heard at the Sheriff [*or* District] Court at (*address*) on (*date*) at (*time*). You must answer the complaint on or before that date. Form 16.1-B explains how to answer the complaint.

IF YOU DO NOT ANSWER THE COMPLAINT, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

This notice was affixed by me (*name and designation*) on: (*date*)
(*signed*)
Officer of Law

Rule 20.3(2)

FORM 20.3-B

Form of citation of offender under section 15(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993

IN THE HIGH COURT OF JUSTICARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [*or* Sheriff [*or* District] Court] at (*address*) because an application has been made to the court by your supervising officer [*or* by a relevant officer of the local authority] [*or* by an officer of the local probation board] for the amendment, variation or cancellation of a requirement specified in your supervised release order. A copy of that application is attached. [*or* The application has been made because (*specify reasons for the application*)].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

(*Signed*)
Clerk of Court

Rule 20.3(3)

FORM 20.3-C

Form of citation of offender under section 18(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993

IN THE HIGH COURT OF JUSTICARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: *(name and address of offender)*

Date: *(date)*

YOU ARE HEREBY CITED to appear on *(date)* at *(time)* in the High Court of Justiciary [*or* Sheriff [*or* District] Court] at *(address)* because it has been reported to the court that you have failed to comply with a requirement specified in the supervised release order made in respect of you on *(date)* as alleged in the written information attached [*or* by *(specify the failure alleged)*].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

(Signed)
Clerk of Court

Rule 20.10(3)

FORM 20.10-C

Form of citation of probationer under paragraph 5(1) of Schedule 6 to the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT *(place)*

CITATION

To: *(name and address of probationer)*

Date: *(date)*

YOU ARE HEREBY CITED to appear on *(date)* at *(time)* in the High Court of Justiciary [*or* Sheriff [*or* District] Court] at *(address)* because the court proposes to amend the probation order made in respect of you on *(date)* as indicated in the information attached [*or* *(specify the proposed amendment)*].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

(Signed)
Clerk of Court

Rule 20.11(3)

FORM 20.11-C

Form of citation under paragraph 5(3) of Schedule 7 to the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [*or Sheriff [or District] Court*] at (*address*) because an application has been made by your supervising officer for the extension, variation or revocation of the supervised attendance order made in respect of you on (*date*). A copy of that application is attached [*or (specify nature of the application)*].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

(*Signed*)
Clerk of Court

Rule 20.11(4)

FORM 20.11-D

Form of citation under paragraph 4(1) of Schedule 7 to the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[*or* IN THE SHERIFF [*or* DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [*or Sheriff [or District] Court*] at (*address*) because it has been reported to the court that you have failed to comply with a requirement of the supervised attendance order made in respect of you on (*date*) as alleged in the written information attached [*or by (specify the failure alleged)*].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

(*Signed*)
Clerk of Court

Rule 20.12B(2)

FORM 20.12B-B

Form of citation of offender under section 234(E)(2) of the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[or IN THE SHERIFF [or DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [or Sheriff [or District] Court] at (*address*) because an application has been made by your supervising officer for the variation or revocation of the drug treatment and testing order made in respect of you on (*date*). A copy of that application is attached [or (*specify nature of the application*)].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST

(*Signed*)
Clerk of Court

FORM 20.12B-C

Rule 20.12B(3)

Form of citation of offender under section 234G(1) of the Criminal Procedure (Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY

[or IN THE SHERIFF [or DISTRICT] COURT]

AT (*place*)

CITATION

To: (*name and address of offender*)

Date: (*date*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [or Sheriff [or District] Court] at (*address*) because it has been reported to the court that you have failed to comply with a requirement of the drug treatment and testing order made in respect of you on (*date*) as alleged in the written information attached [or by (*specify the failure alleged*)].

IF YOU FAIL TO ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

(*Signed*)
Clerk of Court

Rule 44.2

FORM 44.2

Form of notice of consent to surrender under section 7 of the International Criminal Court Act 2001

(a) Whereas on the (*enter day*) day of (*enter month*) 20 , I was arrested in pursuance of a warrant under section 2 of the International Criminal Court Act 2001 with a view to a

delivery order being made providing for me to be delivered up into the custody of the International Criminal Court.

or

- (b) Whereas on the (*enter day*) day of (*enter month*) 20 , I was convicted by the International Criminal Court and on the (*enter day*) day of (*enter month*) 20 , I was arrested in pursuance of a warrant under section 2 of the International Criminal Court Act 2001 with a view to a delivery order being made providing for me to be delivered up into the custody of [the International Criminal Court] [the state of enforcement (*insert name of the state of enforcement*)].

And whereas I understand that, unless I consent to my delivery, I shall have the right:

- (a) to make representations at delivery proceedings as to the matters of which the competent court is to be satisfied before making a delivery order, and
(b) to make an application to the competent court at the time of the delivery proceedings for the determination of whether I was lawfully arrested in pursuance of the warrant and whether my rights have been respected, and
(c) if a delivery order is made, to seek a review of the delivery order, and
(d) not to have the delivery order executed against me until after the end of the period of 15 days beginning with the date on which the order is made.

I therefore give notice of my consent to surrender to be delivered up into the custody of the International Criminal Court or into the custody of the state of enforcement (*insert name of the state of enforcement*), whichever is appropriate. I understand that by consenting to my surrender I waive my right to seek a review of the delivery order under section 12 of the International Criminal Court Act 2001 and I consent to the Secretary of State giving directions for the execution of the delivery order before the period of 15 days has expired.

(Signed by the person to be delivered)

(*Print and sign name*)

or where it is inappropriate to act for themselves under section 7(2)(b) of the International Criminal Court Act 2001.

(Signed on their behalf)

(*Print and sign name*)

This notification was signed by the above-mentioned person in my presence on the (*enter day*) day of (*enter month*) 20 .

(Sheriff)

Rule 44.3

FORM 44.3

Form of notice of waiver of the right to review under section 13 of the International Criminal Court Act 2001

- (a) Whereas on the (*enter day*) day of (*enter month*) 20 , a competent court made a delivery order providing for me to be delivered up into the custody of the International Criminal Court.
- or
- (b) Whereas on the (*enter day*) day of (*enter month*) 20 , a competent court made a delivery order providing for me to be delivered up into the custody of the state of enforcement (*insert name of the state of enforcement*).

And whereas I understand that, unless I waive my right to seek a review of the delivery order I have the right:

(a) for the delivery order to be reviewed, and

(b) not to have the delivery order executed against me until after the end of the period of 15 days beginning with the date on which the order is made.

I therefore give notice that I waive my right to seek a review of the delivery order and I consent to the Secretary of State giving directions for the execution of the delivery order before the period of 15 days has expired.

(Signed by the person to be delivered)

(Print and sign name)

or where it is inappropriate to act for themselves under section 13(2)(b) of the International Criminal Court Act 2001.

(Signed on their behalf)

(Print and sign name)

This notification was signed by the above-mentioned person in my presence on the *(enter day)* day of *(enter month)* 20 .

(Sheriff)

EXPLANATORY NOTE

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

This Act of Adjournal inserts new rules into the Criminal Procedure Rules 1996 (S.I.1996/513) (“the 1996 Rules”) and makes certain other miscellaneous amendments.

Paragraph 2(2) makes a minor amendment to rule 2.2(1) of the 1996 Rules.

Paragraph 2(3) removes rule 2.3(2) of the 1996 Rules. Sections 232 and 233 of the Criminal Procedure (Scotland) Act 1995 (“the Act of 1995”) apply the citation provisions of section 216(5) and (6)(a) and (b) of that Act to the citation of probationers.

Paragraph 2(4) provides two forms of execution in relation to the citation of accused persons in the manner referred to in rule 8.2(1A) and 16.1(2A) of the 1996 Rules. Those rules are inserted by paragraphs 2(6) and 2(8) and relate to the citation of offenders by the affixing of notices. Paragraph 2(4) also introduces new forms of execution in respect of the citation of offenders and probationers to hearings connected with the breach or amendment of various orders.

Paragraph 2(5) makes minor amendments to rule 3.1 of the 1996 Rules which prescribes the form and content of the Books of Adjournal.

Paragraphs 2(6) and (8) provide forms of notice of citation of an accused pursuant to sections 66(4) and 141(2A) respectively of the Act of 1995 which provide for the citation of accused persons by the affixing of notices.

Paragraph 2(7) substitutes rule 9.2 of the 1996 Rules to remove from the Crown the requirement of lodging an execution of service of a minute under rule 9.1 at the same time as the lodging of the minute.

Paragraph 2(9) corrects a minor error in numbering the 1996 Rules.

Paragraph 2(10) inserts new Chapter 19A into the 1996 Rules to make provision for cases where the High Court of Justiciary has adjourned for sentence or has deferred sentence, to allow the Clerk of Justiciary to make an order altering the place where the case is to be called. The Clerk must make the order and intimate it to the parties to the proceedings and to the governor of any institution where the accused is detained no later than two days before the case is called. This paragraph also inserts new Chapter 19B to make provision for regulating the procedure in cases referred to the High Court of Justiciary by the Scottish Cases Review Commission.

Paragraphs 2(11) to (14) introduce new forms of citation of offenders and probationers to hearings connected with the breach or amendment of various orders. They also make various consequential and other minor amendments.

Paragraph 2(15) makes amendments to rule 37AA.9 of Chapter 37 of the 1996 Rules rectifying references to other rules in that Chapter. It applies to the Sheriff Court and High Court of Justiciary.

Paragraph 2(16) inserts new Chapters 44 and 45 into the 1996 Rules. Chapter 44 makes provision for consent to surrender and waiver of the right to review, being given in terms of section 7 of the International Criminal Court Act 2001. Chapter 45 provides for representations to be made in terms of section 2(7) of the Fur Farming (Prohibition) (Scotland) Act 2002.

Paragraph 2(17) inserts new forms into the Appendix to the 1996 Rules as well as making various minor and consequential amendments to existing forms.

Schedule 1 sets out the forms of execution referred to in paragraph 2(3) in relation to the citation of offenders and probationers to hearings connected with the breach or amendment of various orders.

Schedule 2 sets out an amended Form 20.12-B.

Schedule 3 sets out the other forms of execution referred to in paragraph 2(3) and the other forms referred to in paragraphs, 2(6), (8) and (11) to (14).

2003 No. 468

HIGH COURT OF JUSTICIARY

SHERIFF COURT

DISTRICT COURTS

Act of Adjournal (Criminal Procedure Rules Amendment No.2)
(Miscellaneous) 2003

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