
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 160

**SHERIFF COURT
DISTRICT COURTS**

**Act of Adjournal (Criminal Procedure Rules
Amendment No. 2) (Miscellaneous) 2005**

Made - - - - - *18th March 2005*
Coming into force - - - - - *31st March 2005*

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(1), 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) 2005 and shall come into force on 31st March 2005.

(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(2) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 2.6 (forms of execution of service)(3)—

(a) at the end of paragraph (5)(e) “and” shall be omitted; and

(b) after paragraph (5)(f) there shall be inserted the following:—

“; and

(g) rule 20.12C(2) or (3) (community reparation orders: forms of citation of offender) shall be in Form 2.6–EG”.

(3) After rule 16.4 (further procedural forms) there shall be inserted the following:—

(1) 1995 c. 46.

(2) S.I. 1996/513, last amended by S.S.I. 2005/44.

(3) Rule 2.6 was amended by S.S.I. 2003/468 and S.S.I. 2005/44.

“Incidental applications out of hours

16.4A.—(1) Where the prosecutor makes an incidental application in Form 16.4–A when the office of the prosecutor is closed, the application shall not require to be signed by the prosecutor but shall state the name of the prosecutor.

(2) The oath of a police officer shall be sufficient to authenticate the application as being an application by the prosecutor named on the application.”.

(4) After rule 20.12B (drug treatment and testing orders)(4) there shall be inserted the following:–

“Community reparation orders

20.12C.—(1) A community reparation order under section 245K(1)(5) of the Act of 1995 shall be in Form 20.12C–A.

(2) The citation of an offender to appear before a court under section 245N(2) of the Act of 1995 (failure to comply with a community reparation order) shall be in Form 20.12C–B.

(3) The citation of an offender to appear before a court under section 245P(3) of the Act of 1995 (extension, variation and revocation of a community reparation order) shall be in Form 20.12C–C.”.

(5) In rule 20.17 (use of certified copy documents in certain proceedings)—

(a) at the end of paragraph (1)(c) “or” shall be omitted; and

(b) at the end of paragraph (1)(d) there shall be inserted the following:–

“or

(e) a community reparation order;”.

(6) In the appendix—

(a) after Form 2.6–EF there shall be inserted the form set out in Part 1 of the Schedule to this Act of Adjournal;

(b) after Form 20.12B–C there shall be inserted the forms set out in Part 2 of the Schedule to this Act of Adjournal.

Edinburgh
18th March 2005

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

(4) Rule 20.12B was inserted by [S.S.I. 1999/191](#) and amended by [S.S.I. 2003/468](#).

(5) Sections 245K to 245P were inserted by section 120 of the [Antisocial Behaviour etc. \(Scotland\) Act 2004](#) (asp 8)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Paragraph 2(6)

PART 1

FORM 2.6–EG Form of execution of citation under section 245N(2) or 245P(3) of the Criminal Procedure (Scotland) Act 1995

Rule 2.6(5)

EXECUTION OF CITATION

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

This I did by posting on *(date)* a citation in Form 20.12C-B [*or Form 20.12C-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*]

PART 2

FORM 20.12C–A Form of community reparation order under section 245K(1) of the Criminal Procedure (Scotland) Act 1995

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 20.12C(1)

COMMUNITY REPARATION ORDER

under section 245K(1) of the Criminal Procedure (Scotland) Act 1995

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

(1) THE COURT, being satisfied that the requirements of paragraphs (a), (b), (c) and (d) of section 245K(2) of the Criminal Procedure (Scotland) Act 1995 have been met;

AND the court having explained to the offender the purpose and effect of this order (including the requirements set out below), and that if the offender fails to comply with this order or any direction given under it without reasonable excuse the offender may be brought before the court which may revoke this order and deal with the offender in any manner in which he or she could have been dealt with for the original offence, and that the court has the power to review this order on the application either of the offender or of the supervising officer of the local authority specified in this order and extend the period of the order beyond the maximum of 12 months, vary the number of hours specified in the order, or revoke the order;

IN RESPECT that the court now specifies (*specify the local authority*) as the specified local authority, REQUIRES the said Council to appoint a supervising officer for the purposes of section 245K(4)(a) of the Criminal Procedure (Scotland) Act 1995 and to notify the offender forthwith of the particulars of the officer;

ORDERS that the offender shall–

- (a) undertake prescribed activities determined by the supervising officer for (*specify number of hours*) during a period of 12 months beginning with the day on which this order is made or until the stated hours have been completed whichever is the shorter;
- (b) comply with any determination made by the supervising officer on the times and localities at which the offender should undertake those activities; and
- (c) comply with any directions given during that period by the supervising officer to undertake those prescribed activities.

(2) IF for any reason the offender fails to comply with a direction given by a supervising officer by virtue of this order within a period of 12 months from the day on which the order was made:–

- (a) this order will remain in force until the offender has complied with the direction; and
- (b) the officer shall bring the circumstances to the attention of the court.

(Signed)

Clerk of Court

Copy: Offender

Chief Social Work Officer

[Clerk of the appropriate court]

FORM 20.12C–B Form of citation under section 245N(2)(b) of the Criminal Procedure (Scotland) Act 1995

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 20.12C(2)

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 Sheriff [or District] Court at (address) because it has been reported to the court that you have failed to comply with the community reparation order made in respect of you on (date) or with a direction given under it 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

FORM 20.12C–C Form of citation under section 245P(3) of the Criminal Procedure (Scotland) Act 1995

Rule 20.12C(3)

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 Sheriff [or District] Court at (address) because an application has been made by your supervising officer for the extension, variation or revocation of the community reparation order made in respect of you on (date). A copy of that application is attached [or (specify the 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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996 ([S.I. 1996/513](#)) (“the 1996 Rules”) to make provisions consequent upon the Antisocial Behaviour etc. (Scotland) Act 2004, which makes a community reparation order available as a sentence. It also makes provision that an incidental application by the prosecutor when the prosecutor’s office is closed can be unsigned.

Paragraph 2(2) amends rule 2.6 (forms of execution of service) to include reference to the forms of execution of service of citations of offenders subject to a community reparation order.

Paragraph 2(3) inserts a new rule 16.4A to provide that the prosecutor does not have to sign an incidental application under section 134 of the Criminal Procedure (Scotland) Act 1995 which is made when the office of the prosecutor is closed but must indicate the name of the prosecutor making the application. The oath of a police officer is sufficient to authenticate that the application has been made by the prosecutor named in it.

Paragraph 2(4) inserts a new rule 20.12C which sets out the form of a community reparation order and the forms of citation of the offender where the offender is alleged to have failed to comply with a direction under the order or an application is made to extend, vary or revoke the order.

Paragraph 2(5) amends rule 20.17 (use of certified copy documents in certain proceedings) to allow certified copy documents rather than originals to be before a court other than the court that made the order where it is dealing with proceedings relating to a community reparation order.

Paragraph 2(6) amends the appendix to the 1996 Rules by inserting various forms in connection with community reparation orders.