
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 436

**Act of Adjournal (Criminal Procedure Rules
Amendment No. 4) (Miscellaneous) 2006**

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 4) (Miscellaneous) 2006 and shall come into force on 1st September 2006.

(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⁽¹⁾ shall be amended in accordance with the following sub-paragraphs.

(2) In rule 20.3A (sexual offences to which Part 2 of the Sexual Offences Act 2003 applies)⁽²⁾—

(a) after paragraph (3) there shall be inserted—

“(3A) Where sentence has been deferred in respect of an accused who has been given a notice required by paragraph (2), the clerk of the court shall, when sentence is passed, give the accused a notice in Form 20.3A-C.”; and

(b) in paragraph (4)—

(i) for “the notice” there shall be substituted “any notices”;

(ii) after “accused” there shall be inserted “under paragraph (3) or (3A), as the case may be”; and

(iii) for “that copy” there shall be substituted “those copies”.

(3) In rule 31.1 (interpretation of Chapter 31: references to the European Court of Justice)—

(a) in paragraph (1), for the definition of “question” there shall be substituted the following:—

““question” means a question or issue in respect of which the European Court has jurisdiction to give a preliminary ruling under the Community Treaties”;

(b) paragraph (2) shall be omitted;

(4) In rule 31.2 (notice of references in solemn proceedings)—

(a) in paragraph (1)—

(i) for “trial” there shall be substituted “preliminary hearing or first diet”; and

(ii) after “place” there shall be inserted “, as the case may be,”;

(b) in paragraph (2), for “trial diet” there shall be substituted “preliminary hearing or first diet, as the case may be”.

(c) paragraph (3) shall be omitted.

(1) S.I.1996/513, last amended by S.S.I 2006/302.

(2) Rule 20.3A was inserted by S.I. 1997/2082 and amended by S.S.I. 2004/206.

(5) In rule 31.5 (preparation of case for reference), for paragraph (3) there shall be substituted the following:—

“(3) In preparing a reference, the parties shall have regard to guidance issued by the European Court.”.

(6) For Rule 41.3(1) (declaration of incompatibility)(3) there shall be substituted the following:—

“(1) Where in any proceedings a party seeks a declaration of incompatibility or the court is considering whether to make such a declaration at its own instance—

(a) notice in Form 41.3-A shall be given as soon as reasonably practicable to such person as the Lord Justice General may from time to time direct—

(i) by the party seeking the declaration; or

(ii) by the clerk of court,

as the case may be, provided that there shall be no requirement to give such notice to a party or to the representative of a party; and

(b) where notice is given by the party seeking the declaration the party shall lodge a certificate of notification in process.”.

(7) After Chapter 49 (financial reporting orders)(4) there shall be inserted the following:—

“CHAPTER 50

FOOTBALL BANNING ORDERS

Interpretation

50.1. In this Chapter—

“the 2006 Act” means the Police, Public Order and Criminal Justice Act 2006(5);

“football banning order” means an order made under section 51(2) of the 2006 Act;

“football banning orders authority” has the meaning given in section 69 of the 2006 Act.

Football banning orders

50.2. A football banning order shall be in Form 50.2.

Variation or termination of football banning orders

50.3.—(1) An application for the variation or termination of a football banning order shall be made by petition in Form 50.3.

(2) On a petition referred to in paragraph (1) being lodged, the court shall—

(a) order intimation of the application to—

(i) in the case of an application by the person subject to the order, the football banning orders authority; or

(ii) in any other case, to the person subject to the order;

(b) appoint a hearing on the application; and

(c) order intimation of the hearing to the persons referred to in sub-paragraph (a) and to the governor of any institution in which the person in respect of whom the football banning order was made is detained.”.

(3) Chapter 41 was inserted by [S.S.I. 2000/315](#).

(4) Chapter 49 was inserted by [S.S.I. 2006/205](#).

(5) [2006 asp 10](#).

- (8) In the appendix—
- (a) in Form 20.3A-B(6), in the paragraph beginning “These requirements” at the end there shall be inserted—
 - “[or for such period as shall be notified to you when you are sentenced in respect of the offence]”;
 - (b) after Form 20.3A-B there shall be inserted the Form 20.3A-C set out in Part 1 of the Schedule to this Act of Adjournal;
 - (c) in Form 41.3-A(7)—
 - (i) after “not to” there shall be inserted the following:—
 - “[or: That (*specify party*) is seeking that the court]”; and
 - (ii) after “Deputy Principal Clerk of Justiciary” where it second appears there shall be inserted the following:—
 - “[or Solicitor [*or Agent*] for (*specify*)]”.
 - (d) For Form 41.4(8) there shall be substituted the form set out in Part 1 of the Schedule to this Act of Adjournal.
 - (e) After Form 49.3 there shall be inserted the forms set out in Part 2 of the Schedule to this Act of Adjournal.
- (9) The annex (notes for completion of Form 31.5)(9) shall be omitted.

Edinburgh
22nd August 2006

A C Hamilton
Lord Justice General I.P.D.

(6) Form 20.3A-B was substituted by [S.S.I. 2004/206](#).
(7) Form 41.3-A was inserted by [S.S.I. 2000/315](#).
(8) Form 41.4 was inserted by [S.S.I. 2000/315](#).
(9) The annex was inserted by [S.S.I. 1999/1282](#).