
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 61

**Act of Adjournal (Criminal Procedure Rules Amendment)
(Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2008**

Citation, commencement and interpretation

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Criminal Proceedings etc. (Reform) (Scotland) Act 2007) 2008 and shall come into force on 10th March 2008.

(2) This Act of Adjournal shall be inserted in the Books of Adjournal.

(3) In this Act of Adjournal, “the Rules” means the Criminal Procedure Rules 1996(1).

Establishment of justice of the peace courts

2.—(1) For paragraph 2 of the Act of Adjournal (Criminal Procedure Rules) 1996(2) substitute—

“2. Schedule 2 to this Act of Adjournal shall have effect for the purpose of providing rules of procedure in the High Court of Justiciary, in the sheriff court in the exercise of its criminal jurisdiction and in a justice of the peace court.”

(2) In the Rules, for the words “district court”, “[district] court” and “district courts” wherever they appear in the following provisions, substitute “justice of the peace court”, “[justice of the peace] court” and “justice of the peace courts” respectively—

(a) rule 18.1(4);

(b) rule 32.2(1);

(c) rule 36.2(3);

(d) Forms 2.6-B, 2.6-BA(3), 2.6D, 2.6-EA(4), 2.6-EB(5), 2.6-EC(6), 2.6-ED(7), 2.6-EE(8), 2.6-EF(9), 2.6-EG(10), 2.6-EH, 2.6-F, A4.1(11), 16.1-A, 16.1-BB(12), 16.4-C(13), 16.6-A, 16.6-C, 16.6-D, 16.7, 17.1, 19.1-A, 19.2-A(14), 19.2-B, 19.3-A(15), 19.4, 19.5, 19.7, 19.9, 20.3-B(16), 20.3-C(17), 20.6-A, 20.6-B, 20.6-C, 20.8, 20.9-A, 20.9-

(1) The Criminal Procedure Rules 1996 are contained in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules 1996) (S.I.1996/513, last amended by S.S.I. 2007/511).

(2) S.I. 1996/513, last amended by S.S.I. 2007/511.

(3) Form 2.6-BA was inserted by S.S.I. 2003/468.

(4) Form 2.6-EA was substituted by S.S.I. 2003/468.

(5) Form 2.6-EB was inserted by S.S.I. 2003/468.

(6) Form 2.6-EC was inserted by S.S.I. 2003/468.

(7) Form 2.6-ED was inserted by S.S.I. 2003/468.

(8) Form 2.6-EE was inserted by S.S.I. 2003/468.

(9) Form 2.6-EF was inserted by S.S.I. 2003/468.

(10) Form 2.6-EG was inserted by S.S.I. 2005/160.

(11) Form A4.1 was inserted by S.S.I. 2007/511.

(12) Form 16.1-BB was inserted by S.S.I. 2003/468.

(13) Form 16.4-C was amended by S.S.I. 2002/454.

(14) Form 19.2-A was amended by S.I. 1997/1834.

(15) Form 19.3-A was amended by S.I. 1997/1834.

(16) Form 20.3-B was inserted by S.S.I. 2003/468.

(17) Form 20.3-C was inserted by S.S.I. 2003/468.

B, 20.9-C, 20.10-B(18), 20.10-C(19), 20.10B, 20.11-C(20), 20.11-D(21), 20.12-B(22), 20.12A-B(23), 20.12A-C(24), 20.12A-D(25), 20.12B-B(26), 20.12B-C(27), 20.12C-B(28), 20.12C-C(29), 20.18-B, 20.19-A, 20.19-B, 21.1-A, 21.3, 21.5(30), 27.3, 28.1-B, 28.2, 29.1-B(31), 31.5, 31.7, 32.2, 36.2(32), 38(33), 40.3A(34), 40.3A-A(35), 40.3B(36), 40.4A(37), 40.4A-A(38), 40.4B(39), 40.7(40), 40.12(41), 46.2(42), 51.4(43) and 51.6(44).

(3) The references in the Act of Adjournal (Criminal Procedure Rules) 1996 to “justice of the peace court”, “[justice of the peace] court” and “justice of the peace courts” include, so far as still relevant, “district court”, “[district] court” and “district courts” respectively.

(4) Subject to subparagraph (5), subparagraph (3) ceases to apply at such time as there cease to be any district courts.

(5) Subparagraph (3) continues to apply after the time mentioned in subparagraph (4) in so far as necessary for the purposes of any appeal from a district court.

Pre-trial time limits

3.—(1) Before rule 17.1 of the Rules (appeals against extension of period of detention) in Chapter 17 (summary pre-trial procedure) insert—

“Applications for extension of period of detention

17.A1. An application made in writing for extension of time under section 147 of the Act of 1995 (prevention of delay in trials)(45) shall be in Form 17.A1 and shall be intimated to the other parties by the applicant.”.

(2) After Form 16.7 in the appendix to the Rules insert Form 17.A1 set out in the Schedule to this Act of Adjournal.

Obstructive witnesses

4.—(1) For rule 18.3 of the Rules (warrant to apprehend witness who fails to appear) substitute—

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- (18) Form 20.10-B was amended by [S.S.I. 2003/468](#).
(19) Form 20.10-C was inserted by [S.S.I. 2003/468](#).
(20) Form 20.11-C was inserted by [S.S.I. 2003/468](#).
(21) Form 20.11-D was inserted by [S.S.I. 2003/468](#).
(22) Form 20.12-B was substituted by [S.S.I. 2003/468](#).
(23) Form 20.12A-B was inserted by S.I. 1998/1842 and amended by [S.S.I. 2003/468](#).
(24) Form 20.12A-C was inserted by S.I. 1998/1842 and amended by [S.S.I. 2003/468](#).
(25) Form 20.12A-D was inserted by S.I. 1998/1842 and amended by [S.S.I. 2003/468](#).
(26) Form 20.12B-B was inserted by [S.S.I. 2003/468](#).
(27) Form 20.12B-C was inserted by [S.S.I. 2003/468](#).
(28) Form 20.12C-B was inserted by [S.S.I. 2005/160](#).
(29) Form 20.12C-C was inserted by [S.S.I. 2005/160](#).
(30) Form 21.5 was inserted by [S.S.I. 2002/454](#) and amended by [S.S.I. 2006/302](#).
(31) Form 29.1-B was amended by [S.S.I. 2005/188](#).
(32) Form 36.2 was inserted by [S.S.I. 2004/195](#).
(33) Form 38 was inserted by S.I. 1997/1834.
(34) Form 40.3A was inserted by S.I. 1999/1346 and amended by [S.S.I. 2007/361](#).
(35) Form 40.3A-A was inserted by [S.S.I. 2007/361](#).
(36) Form 40.3B was inserted by S.I. 1999/1346.
(37) Form 40.4A was inserted by [S.S.I. 2007/361](#).
(38) Form 40.4A-A was inserted by [S.S.I. 2007/361](#).
(39) Form 40.4B was inserted by S.I. 1999/1346.
(40) Form 40.7 was inserted by [S.S.I. 2007/361](#).
(41) Form 40.12 was inserted by S.I. 1999/1346.
(42) Form 46.2 was inserted by [S.S.I. 2004/206](#).
(43) Form 51.4 was inserted by [S.S.I. 2007/238](#).
(44) Form 51.6 was inserted by [S.S.I. 2007/238](#).
(45) Section 147 was amended by section 11 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

“Warrants for apprehension of witnesses

18.3.—(1) An application made in writing for a warrant for the apprehension of a witness under section 156 or 156C of the Act of 1995 (apprehension of witnesses)**(46)** shall be in Form 18.3-A.

(2) On receipt of an application under paragraph (1), the clerk of court shall fix a diet for the hearing of the application and intimate the date of the hearing to the parties.

(3) A warrant for the apprehension of a witness under section 156(1) of the Act of 1995 shall be in Form 18.3-B.

Review by witnesses of orders made under section 156A

18.3A. An application under section 156C(2)(a) of the Act of 1995 (application by party for review of order under section 156A(1)(b)) shall be in Form 18.3A.

Citation of witnesses under section 156C(5)

18.3B. The citation of a witness under section 156C(5)(b) shall be in Form 18.3B.

Appeals in respect of orders made under section 156A(1)

18.3C. An appeal under section 156D(1) of the 1995 Act (appeals in respect of orders under section 156A(1))**(47)** shall be in Form 18.3C.”.

(2) For Form 18.3 in the appendix to the Rules substitute Forms 18.3-A, 18.3-B, 18.3A, 18.3B and 18.3C set out in the Schedule to this Act of Adjournal.

Enforcement of fines etc.

5.—(1) After rule 20.9 of the Rules (transfer of fines) insert—

“Enforcement orders

20.9A. An order under section 226B of the Act of 1995 (enforcement orders)**(48)** shall be in Form 20.9A and the form of warrant for civil diligence granted under section 226F of that Act (powers of diligence)**(49)** in respect of the order shall be in the form set out in that Form.

Application for an order for sale or disposal of a vehicle

20.9B.—(1) An application for an order for sale or disposal of a vehicle under section 226D(6) of the Act of 1995 (seizure of vehicles)**(50)** shall be in Form 20.9B-A and a copy shall be served on the offender by the fines enforcement officer.

(2) Where an offender objects to an application under paragraph (1) he shall, within 7 days of its receipt, lodge with the clerk of court a response in the form of numbered paragraphs which correspond to the paragraphs of that application.

(3) The court may fix a diet for hearing an application mentioned in paragraph (1) and any response lodged under paragraph (2) in relation to the application.

(46) Section 156 was inserted by section 16 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(47) Section 156D was inserted by section 16 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(48) Section 226B was inserted by section 55 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(49) Section 226F was inserted by section 55 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(50) Section 226D was inserted by section 55 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(4) Where the court fixes a diet under paragraph (3) the clerk of court shall intimate the diet to the offender and the applicant.

(5) An order under section 226D(6) of the Act of 1995 shall be in Form 20.9B-B.

Application by a third party claiming to own vehicle

20.9C.—(1) An application to a sheriff under section 226D(7)(b)(ii) of the Act of 1995 by a third party who claims to own the vehicle shall be in Form 20.9C.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) the clerk of court shall intimate—

(a) the application and the diet to—

(i) the offender subject to the enforcement order in terms of which the vehicle seizure order was made;

(ii) any other person from whose possession the vehicle was taken;

(iii) the relevant fines enforcement officer; and

(b) the diet to the applicant.

Review of actions of fines enforcement officer

20.9D.—(1) An application for review under section 226H of the Act of 1995 (review of actions of FEO)(51) shall be in Form 20.9D.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) it shall intimate—

(a) the application and the diet to the relevant fines enforcement officer; and

(b) the diet to the applicant.”.

(2) After Form 20.9-C in the appendix to the Rules insert Forms 20.9A, 20.9B-A, 20.9B-B, 20.9C and 20.9D set out in the Schedule to this Act of Adjournal.

Fixed penalty or compensation conditional offer by procurator fiscal

6.—(1) After Chapter 52 of the Rules (investigation of revenue and customs offences)(52) insert—

“CHAPTER 53

REVIEW OF FIXED PENALTY OR COMPENSATION CONDITIONAL OFFERS BY PROCURATOR FISCAL

Review by court of fixed penalty or compensation conditional offers by procurator fiscal

53.1.—(1) An application for review under section 302C(6) of the Act of 1995 (recall of fixed penalty or compensation offer)(53) shall be in Form 53.1.

(2) The court may fix a diet for hearing an application mentioned in paragraph (1).

(3) Where the court fixes a diet under paragraph (2) it shall—

(a) send a copy of the application to the prosecutor; and

(51) Section 226H was inserted by section 55 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(52) Chapter 52 was inserted by [S.S.I. 2007495](#).

(53) Section 302C was inserted by section 50 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#).

(b) intimate the diet to the parties.”.

(2) After Form 52.4-B in the appendix to the Rules⁽⁵⁴⁾ insert Form 53.1 set out in the Schedule to this Act of Adjournal.

Edinburgh
20th February 2008

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

⁽⁵⁴⁾ Form 52.4-B was inserted by [S.S.I. 2007/495](#).