
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 144

**HIGH COURT OF JUSTICIARY
SHERIFF COURT
JUSTICE OF THE PEACE COURTS**

**Act of Adjournal (Criminal Procedure
Rules Amendment) (Miscellaneous) 2009**

Made - - - - *3rd April 2009*
Coming into force - - *30th April 2009*

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, commencement and interpretation

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Miscellaneous) 2009 and comes into force on 30th April 2009.

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

(3) In this Act of Adjournal, “the Rules” means the Criminal Procedure Rules 1996(2).

Transfer of solemn proceedings (sheriff court)

2.—(1) After Chapter 8B of the Rules (failure of accused to appear)(3) insert—

(1) 1995 c. 46.

(2) 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. 2008/275).

(3) Chapter 8B was inserted by S.S.I. 2007/511.

“CHAPTER 8C

TRANSFER OF PROCEEDINGS (SHERIFF COURT)

Transfer of solemn proceedings outwith sheriffdom

8C.1. A written application by the prosecutor under section 34A of the Act of 1995 (initiating proceedings outwith sheriffdom: exceptional circumstances)(4) shall be in Form 8C.1.”

(2) After Form 8B.1(5) in the appendix to the Rules insert the form set out in Part 1 of the Schedule to this Act of Adjournal.

Transfer of summary proceedings

3.—(1) After Chapter 17 of the Rules (summary pre-trial procedure) insert—

“CHAPTER 17A

TRANSFER OF SUMMARY PROCEEDINGS

Transfer of summary proceedings

17A.1.—(1) A written application by the procurator fiscal under—

- (a) section 137A(1) of the Act of 1995 (transfer within sheriffdom)(6) shall be in Form 17A.1-A;
- (b) section 137B(1) of the Act of 1995 (transfer outwith sheriffdom due to exceptional circumstances)(7) shall be in Form 17A.1-B;
- (c) section 137B(1A) of the Act of 1995 (transfer outwith sheriffdom where accused cited to attend diet in other summary proceedings or other summary proceedings commenced) shall be in Form 17A.1-C;
- (d) section 137B(1C) of the Act of 1995 (transfer outwith sheriffdom: intention to take summary proceedings where other summary proceedings commenced) shall be in Form 17A.1-D;
- (e) section 137B(3) of the Act of 1995 (transfer outwith sheriffdom due to exceptional circumstances: revocation or variation of order) shall be in Form 17A.1-E;
- (f) section 137B(4) of the Act of 1995 (transfer outwith sheriffdom where other summary proceedings commenced or intended: revocation or variation of order) shall be in Form 17A.1-F;
- (g) section 137C(1) of the Act of 1995 (initiating custody cases outwith sheriffdom: exceptional circumstances)(8) shall be in Form 17A.1-G;
- (h) section 137D(1) of the Act of 1995 (transfer of justice of the peace court proceedings where accused person to be sentenced in sheriff court)(9) shall be in Form 17A.1-H.

(4) Section 34A was inserted by section 31 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(5) Form 8B.1 was inserted by [S.S.I. 2007/511](#).

(6) Section 137A was inserted by section 58 of the [Criminal Justice \(Scotland\) Act 2003](#) (asp 7) and amended by section 22 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(7) Section 137B was inserted by section 58 of the [Criminal Justice \(Scotland\) Act 2003](#) (asp 7). Subsection (1) was amended by, and subsections (1A) and (1C) were inserted by, section 22 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(8) Section 137C was inserted by section 22 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(9) Section 137D was inserted by section 22 of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#) (asp 6).

(2) Where the sheriff principal consents to an application under paragraph (1)(b), (e) or (g), he shall docket his consent to the application.

(3) Where a sheriff consents to an application under paragraph (1)(c), (d) or (f), he shall docket his consent to the application.”.

(2) After Form 17.2(10) in the appendix to the Rules insert the forms set out in Part 2 of the Schedule to this Act of Adjournal.

Identification procedures

4.—(1) In the heading of Chapter 28 of the Rules (identification parades) for “parades” substitute “procedures”.

(2) For “parade” substitute “procedure” wherever it appears in each of the following places in:

(a) rule 28.2 of the Rules (order requiring accused to participate in identification parade)(11), in the heading and in paragraph (1); and

(b) the heading of Form 28.2 in the appendix to the Rules (form of application for order requiring accused to participate in identification parade)(12).

Service of bills and petitions

5. After Chapter 29 of the Rules (precognition on oath of defence witnesses) insert—

“CHAPTER 29A

SERVICE OF BILLS OF ADVOCATION AND SUSPENSION AND PETITIONS TO THE NOBILE OFFICIUM

Service of bill or petition

29A.1.—(1) Where a first order for service is sought in relation to—

- (a) a bill of advocacy;
- (b) a bill of suspension; or
- (c) a petition to the nobile officium,

the complainer or petitioner shall provide two copies of the bill or petition when presenting it to the Clerk of Justiciary for registration.

(2) Where a first order for service is granted, the Clerk of Justiciary shall provide the complainer or petitioner with a certified copy of—

- (a) the bill or petition; and
- (b) the interlocutor granting first order for service.

(3) The complainer or petitioner shall serve the certified copy of the bill or petition and interlocutor on the respondent.

(4) Where a bill or petition arises from proceedings in a lower court, the Clerk of Justiciary shall intimate a copy to that court.”.

(10) Form 17.2 was inserted by [S.S.I. 2007/511](#).

(11) Rule 28.2 was inserted by [S.S.I. 2007/511](#).

(12) Form 28.2 was inserted by [S.S.I. 2007/511](#) and amended by [S.S.I. 2008/61](#).

Animal dealing licences: disqualification

6.—(1) In rule 51.1 of the Rules (interpretation: animal health and welfare)(**13**) in the definition of “disqualification order” for “or section 40 of the 2006 Act” substitute—

“, section 40 of the 2006 Act or regulation 21(2) of the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009(**14**)

(2) In Form 51.5 in the appendix to the Rules(**15**) after the words “Animal Health and Welfare (Scotland) Act 2006]” insert—

“[or regulation 21(1) of the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009]”.

Edinburgh
3rd April 2009

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

(13) Rule 51.1 was inserted by [S.S.I. 2007/238](#).

(14) [S.S.I. 2009/141](#).

(15) Form 51.5 was inserted by [S.S.I. 2007/238](#).

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(2)

PART 1

Form 8C.1 Application for transfer of petition custody proceedings under section 34A(1) of the Criminal Procedure (Scotland) Act 1995

Rule 8C.1

UNTO THE HONOURABLE THE SHERIFF PRINCIPAL OF *(name of sheriffdom)*

APPLICATION

under section 34A(1) of the Criminal Procedure (Scotland) Act 1995

by

HER MAJESTY'S ADVOCATE *(place)*

HUMBLY SHEWETH:

1. That because of the following exceptional circumstances it is likely that there would be an unusually high number of accused persons appearing from custody for the first calling of cases on petition in the sheriff courts of the sheriffdom of *(place)*: *(here narrate circumstances with reference, if appropriate, to a particular period)*.
2. That it would not be practicable for those courts to deal with all the cases involved.
3. That the sheriff principal of *(place)* consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 34A(3) of the Criminal Procedure (Scotland) Act 1995 and with the consent of the sheriff principal of *(place)* to order that no more than *(insert number of diets)* will call in the sheriff court of *(place)* in the sheriffdom of *(place)* and that all other of the petition proceedings against persons appearing from custody which would ordinarily call in the sheriff courts of the sheriffdom of *(place)* be taken at the sheriff court of *(place)* and then maintained there *[or at any sheriff court within the sheriffdom of (place) as may at the first calling of the case be appointed for further proceedings]*;
- (b) to order that the accused be cited or ordained to appear as appropriate at the court where the case is to call;
- (c) where appropriate, to order intimation of the change of diet to the accused; and
- (d) *(here specify, if appropriate, particular period or particular circumstances for which order is to have effect)*.

IN RESPECT WHEREOF

(Signed)

Prosecutor

(Name, place and date)

Paragraph 3(2)

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

PART 2

Form 17A.1-A Application for transfer of proceedings under Section 137A(1) of the Criminal Procedure (Scotland) Act 1995

Rule 17A.1(1)(a)

UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)

AT (*place*)

APPLICATION

under section 137A(1) of the Criminal Procedure (Scotland) Act 1995

by

THE PROCURATOR FISCAL (*place*)

HUMBLY SHEWETH:

1. That [A.B.] has been cited in summary proceedings to attend at the sheriff court of (*place*) on (*date*) [or That summary proceedings against [A.B.] were commenced in the sheriff court of (*place*) on (*date*)].
2. That the applicant seeks to transfer the proceedings to the sheriff court of (*place*) for the following reasons: (*here narrate reasons*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137A(2) of the Criminal Procedure (Scotland) Act 1995 to order that the said proceedings be transferred to the sheriff court of (*place*);
- (b) to adjourn said proceedings to a diet of the sheriff court of (*place*) on (*date*) at (*time*);
- (c) where any future diet has been fixed in the sheriff court of (*place*) to discharge that diet;
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(*signed*)

Procurator Fiscal

(*Name, place and date*)

Form 17A.1-B Application for transfer of proceedings under section 137B(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 17A.1(1)(b)

UNTO THE HONOURABLE THE SHERIFF PRINCIPAL OF (*name of sheriffdom*)

AT (*place*)

APPLICATION

under section 137B(1) of the Criminal Procedure (Scotland) Act 1995

by

THE PROCURATOR FISCAL (*place*)

HUMBLY SHEWETH:

1. That the sheriff clerk at the sheriff court of (*place*) has informed the applicant that, because of exceptional circumstances which could not reasonably have been foreseen, it is not practicable for the sheriff court of (*place*) or any other sheriff court in the sheriffdom of (*place*) to proceed with the summary cases listed in the attached annex due to call at the sheriff court of (*place*) on (*date*).
2. That the applicant seeks an order transferring the summary proceedings listed in the attached annex to the sheriff court of (*place*) in the sheriffdom of (*place*) for the following reasons: (*here narrate reasons*).
3. That the sheriff principal of (*place*) consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137B(2) of the Criminal Procedure (Scotland) Act 1995 and with the consent of the sheriff principal of (*place*) to order that the summary proceedings listed in the attached annex be transferred to the sheriff court of (*place*) in the sheriffdom of (*place*);
- (b) to adjourn said proceedings to a diet of the sheriff court of (*place*) on (*date*) at (*time*);
- (c) to discharge any future diet(s) in the sheriff court of (*place*);
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(*signed*)

Procurator Fiscal

(*Name, place and date*)

Form 17A.1-C Application for transfer of proceedings under section 137B(1A) 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 17A.1(1)(c)

UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)
AT (*place*)
APPLICATION
under section 137B(1A) of the Criminal Procedure (Scotland) Act 1995
by
THE PROCURATOR FISCAL (*place*)

HUMBLY SHEWETH:

1. That [A.B.] has been cited in summary proceedings to attend at the sheriff court of (*place*) on (*date*) [*or* That summary proceedings against [A.B.] were commenced at the sheriff court of (*place*) on (*date*)].
2. That there are also summary proceedings against [A.B.] in the sheriff court of (*place*) in the sheriffdom of (*place*).
3. That it would be expedient for the different cases involved to be dealt with by the same court for the following reasons: (*here narrate reasons*).
4. That Sheriff (*name*) of the sheriffdom of (*place*) consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137B(2A) of the Criminal Procedure (Scotland) Act 1995 and with the consent of Sheriff (*name*) of the sheriffdom of (*place*) to order that the said summary proceedings against [A.B.] be transferred from the sheriff court of (*place*) to the sheriff court of (*place*) in the sheriffdom of (*place*);
- (b) to adjourn said proceedings to a diet of the sheriff court of (*place*) on (*date*) at (*time*);
- (c) where any future diet has been fixed in the sheriff court of (*place*) to discharge that diet;
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(*signed*)

Procurator Fiscal

(*Name, place and date*)

Form 17A.1-DApplication for transfer of proceedings under section 137B(1C) 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 17A.1(1)(d)

UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)
AT (*place*)
APPLICATION
under section 137B(1C) of the Criminal Procedure (Scotland) Act 1995
by
THE PROCURATOR FISCAL (*place*)

HUMBLY SHEWETH:

1. That the Applicant intends to take summary proceedings against [A.B.] in the sheriff court of (*place*).
2. That there are also summary proceedings against [A.B.] in the sheriff court of (*place*) in the sheriffdom of (*place*).
3. That it would be expedient for the different cases involved to be dealt with by the same court for the following reasons: (*here narrate reasons*).
4. That Sheriff (*name*) of the sheriffdom of (*place*) consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

under section 137B(2A) of the Criminal Procedure (Scotland) Act 1995 and with the consent of Sheriff (*name*) of the sheriffdom of (*place*) to grant authority that the said intended summary proceedings against [A.B.] be taken at the sheriff court of (*place*) in the sheriffdom of (*place*) at (*time*).

IN RESPECT WHEREOF

(*signed*)

Procurator Fiscal

(*Name, place and date*)

Form 17A.1-EApplication for revocation or variation of order under section 137B(3) 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 17A.1(1)(e)

UNTO THE HONOURABLE THE SHERIFF PRINCIPAL OF *(name of sheriffdom)*

APPLICATION

under section 137B(3) of the Criminal Procedure (Scotland) Act 1995

by

THE PROCURATOR FISCAL *(place)*

HUMBLY SHEWETH:

1. That on *(date of order)* your Lordship made an order under section 137B(2) of the Criminal Procedure (Scotland) Act 1995 transferring the summary proceedings listed in the attached annex to the sheriff court of *(place)* and did adjourn said proceedings to a diet of that court on *(date)* at *(time)*.
2. That the applicant seeks to revoke [*or vary*] that order for the following reasons. *(here narrate circumstances justifying revocation or variation of order and narrate variation sought)*.
3. That the sheriff principal of *(place)* consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137B(3) of the Criminal Procedure (Scotland) Act 1995 and with the consent of the sheriff principal of *(place)* to revoke [*or vary*] said order made on *(date)*; and
- (b) to order that the summary proceedings listed in the attached annex be transferred or further adjourned to the sheriff court of *(place)* in the sheriffdom of *(place)* at *(time)*;
- (c) where any future diet has been fixed to discharge that diet;
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(signed)

Procurator Fiscal

(Name, place and date)

Form 17A.1-FApplication for revocation or variation of order under section 137B(4) 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 17A.1(1)(f)

UNTO THE HONOURABLE THE SHERIFF OF *(name of sheriffdom)*
AT *(place)*
APPLICATION
under section 137B(4) of the Criminal Procedure (Scotland) Act 1995
by
THE PROCURATOR FISCAL *(place)*

HUMBLY SHEWETH:

1. That on *(date)* your Lordship made an order with the consent of Sheriff *(name)* of the sheriffdom of *(place)* under section 137B(2A) of the Criminal Procedure (Scotland) Act 1995 transferring summary proceedings against [A.B.] in the sheriff court of *(place)* to the sheriff court of *(place)* in the sheriffdom of *(place)* and did adjourn said proceedings to a diet of that court on *(date)* [or That on *(date)* your Lordship made an order with the consent of Sheriff *(name)* of the sheriffdom of *(place)* under section 137B(2A) of the Criminal Procedure (Scotland) Act 1995 for authority for summary proceedings against [A.B.] to be taken at the sheriff court of *(place)* in the sheriffdom of *(place)*].
2. That the applicant seeks to revoke [or vary] that order for the following reasons: *(here narrate circumstances justifying revocation or variation of order and narrate variation sought)*.
3. That Sheriff *(name)* of the sheriffdom of *(place)* consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137B(4) of the Criminal Procedure (Scotland) Act 1995 and with the consent of Sheriff *(name)* of the sheriffdom of *(place)* to revoke [or vary] said order made on *(date)*;
- (b) to order that the summary proceedings be transferred or further adjourned to the sheriff court of *(place)* in the sheriffdom of *(place)* at *(time)*;
- (c) where any future diet has been fixed to discharge that diet;
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(signed)

Procurator Fiscal

(Name, place and date)

Form 17A.1-GApplication for transfer of summary custody proceedings under section 137C(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 17A.1(1)(g)

UNTO THE HONOURABLE THE SHERIFF PRINCIPAL OF *(name of sheriffdom)*

APPLICATION

under section 137C(1) of the Criminal Procedure (Scotland) Act 1995

by

THE PROCURATOR FISCAL *(place)*

HUMBLY SHEWETH:

1. That because of the following exceptional circumstances it is likely that there would be an unusually high number of accused persons appearing from custody for the first calling of cases in summary prosecutions in the sheriff courts in the sheriffdom of *(place)*: *(here narrate circumstances with reference, if appropriate, to a particular period)*.
2. That it would not be practicable for those courts to deal with all the cases involved.
3. That the sheriff principal of *(place)* consents to this application.

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137C(3) of the Criminal Procedure (Scotland) Act 1995 and with the consent of the sheriff principal of *(place)* to order that no more than *(insert number of diets)* will call in the sheriff court of *(place)* in the sheriffdom of *(place)* and that all other of the summary proceedings against persons appearing from custody which would ordinarily call in the sheriff courts in the sheriffdom of *(place)* be taken at the sheriff court of *(place)* and then maintained there *[or at any sheriff court within the sheriffdom of (place) as may at the first calling of the case be appointed for further proceedings]*;
- (b) to order that the accused be cited or ordained to appear as appropriate to the court where the case is to call;
- (c) where appropriate, to order intimation of the change of diet to the accused; and
- (d) *(here specify, if appropriate, particular period or particular circumstances for which order is to have effect)*.

IN RESPECT WHEREOF

(signed)

Procurator Fiscal

(Name, place and date)

Form 17A.1-HApplication for transfer of proceedings from justice of the peace court to sheriff court under section 137D(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 17A.1(h)

UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)
AT (*place*)
APPLICATION
under section 137D(1) of the Criminal Procedure (Scotland) Act 1995
by
THE PROCURATOR FISCAL (*place*)

HUMBLY SHEWETH:

1. That on (*date*) at the sheriff court of (*place*) [A.B.] was convicted of (*specify offence(s)*) on summary complaint.
2. That those proceedings were continued to (*date*) at which time [A.B.] is due to be sentenced.
3. That on (*date*) at the justice of the peace court at (*place*) [A.B.] was convicted of (*specify offence(s)*).
4. That those proceedings were continued to (*date*) at which time [A.B.] is due to be sentenced.
5. That it would be expedient for the said cases against [A.B.] to be disposed of at the same court at the same time for the following reasons: (*here narrate reasons*).

MAY IT THEREFORE PLEASE YOUR LORDSHIP—

- (a) under section 137D(1) of the Criminal Procedure (Scotland) Act 1995 to order that said proceedings at the justice of the peace court at (*place*) be transferred to the sheriff court of (*place*);
- (b) to adjourn said proceedings to a diet of that court on (*date*) at (*time*);
- (c) to discharge the diet of the justice of the peace court on (*date*);
- (d) to order that the accused be cited or ordained to appear as appropriate; and
- (e) where appropriate, to order intimation of the change of diet to the accused.

IN RESPECT WHEREOF

(*signed*)

Procurator Fiscal

(*Name, place and date*)

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996.

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

Paragraph 2 inserts a new Chapter 8C providing a form for an application by the prosecutor for the transfer of solemn proceedings in the sheriff court under section 34A of the Criminal Procedure (Scotland) Act 1995.

Paragraph 3 inserts a new Chapter 17A, providing forms for applications by the prosecutor for the transfer of summary proceedings in the sheriff court under sections 137A, 137B, 137C and 137D of the Criminal Procedure (Scotland) Act 1995.

Paragraph 4 makes minor amendments to Chapter 28 and Form 28.2 in relation to identification procedures.

Paragraph 5 inserts a new Chapter 29A, providing rules in relation to the service of bills of advocation and suspension and petitions to the nobile officium.

Paragraph 6 amends Chapter 51 in consequence of the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009.