
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 184

**Act of Adjournal (Criminal Procedure
Rules Amendment) (Miscellaneous) 2010**

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Miscellaneous) 2010 and comes into force on 1st June 2010.

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

(3) Unless the context requires otherwise, in this Act of Adjournal a reference to a numbered provision or form is to the provision or form of that number in the Criminal Procedure Rules 1996(1).

Summoning of jurors

2.—(1) In rule 13.1 (list of jurors)(2), in paragraph (1)(a), for “30” substitute “40”.

(2) Paragraph (1) shall apply only to a list of jurors prepared on or after 1st June 2010.

Procedure at trial in solemn proceedings

3.—(1) In rule 14.1 (recording of not guilty plea) after “shall” insert “, subject to rule 14.1A,”.

(2) After rule 14.1, insert—

“Minimum number of jurors for balloting jury

14.1A.—(1) Notwithstanding section 88(1) of the Act of 1995 (plea of not guilty, balloting and swearing of jury, etc.), where there are fewer than 30 of those named on the list of jurors present in the court it shall not be competent to proceed to ballot the jury.

(2) Where it is not competent to proceed to ballot the jury the court shall make such order or orders as it thinks fit in the interests of justice.”

(3) This paragraph shall apply only where the jury is to be balloted from a list of jurors prepared on or after 1st June 2010.

Lodging and intimation of transcripts

4.—(1) After rule 15.16 (presentation of solemn sentence appeal in writing)(3), insert—

“Copying of transcripts to other parties

15.16A.—(1) Where the prosecutor receives a transcript under section 94(2) of the Act of 1995, the prosecutor shall forthwith send a copy to the other parties and to the clerk of court.

(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. 2009/345).

(2) Rule 13.1 was substituted by S.S.I. 2005/44.

(3) Rule 15.16 was inserted by S.S.I. 2003/387 and amended by S.S.I. 2006/302.

(2) Where a person receives a transcript under section 94(2A) of the Act of 1995, that person shall forthwith send a copy to the other parties and to the clerk of court.”.

(2) In rule 15.17 (lodging and intimation of transcripts)—

(a) in paragraph (2) for “send a copy to the other parties” insert “intimate to the other parties that the transcript or the relevant part thereof has been so lodged”;

(b) in paragraph (4) for “21” substitute “28”.

(3) Paragraph (2)(b) shall apply only in relation to cases where the date of the hearing concerned is on or after 29th June 2010.

Alteration by Clerk of Justiciary of place where case to be heard

5.—(1) Rule 19A.1 (power of Clerk of Justiciary to alter place where case to be heard)(4) is amended in accordance with subparagraphs (2) to (5).

(2) In paragraph (1)(a), for “under section 201 of the Act of 1995” substitute “following conviction”.

(3) In paragraph (1)(b), for “under section 202 of the Act of 1995” substitute “following conviction”.

(4) After paragraph (1)(b) insert—

“(c) fixed any diet in respect of any of the following—

(i) a probation order made under section 228 of the Act of 1995;

(ii) a supervised release order made under section 209 of the Act of 1995;

(iii) a drug treatment and testing order made under section 234B of the Act of 1995;

(iv) a community service order made under section 238 of the Act of 1995;

(d) fixed any diet under section 52 or sections 52B to 59 of the Act of 1995.”.

(5) The heading to Chapter 19A(5) becomes “ALTERATION BY CLERK OF JUSTICIARY OF PLACE WHERE CASE TO BE HEARD”.

Recovery of documents: appeals against decision of sheriff

6.—(1) Rule 27A.1 (appeal against decision of sheriff: recovery of documents)(6) is amended in accordance with subparagraphs (2) and (3).

(2) In paragraph (1), for “proceedings” substitute “application”.

(3) In Form 27A.1 (form of appeal against decision of sheriff on application for an order for recovery of documents)(7)—

(a) in the instance, after “[or Prisoner in the Prison of (*place*)]” insert “[or [C.D.], (address)]”;

(b) in paragraph 4, after “[or the Procurator Fiscal, (*place*),]” insert “[or [C.D.], haver of documents to which the order relates]”.

Knife licensing: applications for recovery orders

7.—(1) After Chapter 54 (mutual recognition of criminal financial penalties)(8) insert—

(4) Rule 19A.1 was inserted by [S.S.I. 2003/468](#).

(5) Chapter 19A.1 was inserted by [S.S.I. 2003/468](#).

(6) Rule 27A.1 was inserted by [S.S.I. 2007/511](#).

(7) Form 27A.1 was inserted by [S.S.I. 2007/511](#).

(8) Chapter 54 was inserted by [S.S.I. 2009/345](#).

“CHAPTER 55

RECOVERY ORDERS UNDER SECTION 27K(3) OF THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

55.1. An application under section 27K(3) of the Civic Government (Scotland) Act 1982 (application for recovery order) shall be made by petition in Form 55.”.

(2) In the appendix, at the end insert the form set out in the Schedule to this Act of Adjournal.

Edinburgh
7th May 2010

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