
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 242

**Act of Adjournal (Criminal Procedure
Rules Amendment No. 4) (Disclosure) 2011**

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No. 4) (Disclosure) 2011.

(2) It comes into force on 6th June 2011.

(3) A certified copy of this Act of Adjournal is to be inserted in the Books of Adjournal.

Disclosure

2.—(1) The Criminal Procedure Rules 1996⁽¹⁾ are amended as follows.

(2) After Chapter 7 (mental disorder)⁽²⁾ insert—

**“CHAPTER 7A
DISCLOSURE**

Interpretation

7A.1. In this Chapter—

“the 2010 Act” means the Criminal Justice and Licensing (Scotland) Act 2010;

“classified” means has a status under any scheme operated by the United Kingdom Government for the protection of information which limits those who may see the information to those with a special security clearance;

“appropriate security clearance” means the special security clearance required under the scheme concerned;

“appropriate security conditions” means the security conditions for the storage of the information required under the scheme concerned.

Defence statements

7A.2.—(1) A defence statement lodged under section 70A of the Act of 1995, or section 125 or section 126 of the 2010 Act, shall be in Form 7A.2-A.

(2) A statement lodged before the trial diet under section 70A(4)(a) of the Act of 1995, or section 126(2)(a) of the 2010 Act, shall be in Form 7A.2-B.

(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. 2011/194).

(2) Chapter 7, last amended by S.S.I. 2007/276.

Applications for ruling on disclosure

7A.3.—(1) An application under section 128(2) or section 139(2) of the 2010 Act shall be in Form 7A.3.

(2) Not less than 48 hours before lodging the application the applicant shall send a copy of the application to the prosecutor.

(3) Where the court appoints a hearing on an application the clerk of court shall intimate the date and time of the hearing to the parties.

Review of ruling on disclosure

7A.4.—(1) An application under section 129(2) or section 140(2) of the 2010 Act shall be in Form 7A.4.

(2) Not less than 48 hours before lodging the application the applicant shall send a copy of the application to the prosecutor.

(3) Where the court appoints a hearing on an application the clerk of court shall intimate the date and time of the hearing to the parties.

Appeal against ruling

7A.5.—(1) An appeal under section 130(1) of the 2010 Act shall be made by lodging a note of appeal in Form 7A.5.

(2) At the same time as lodging a note of appeal the appellant shall send a copy of the note of appeal to the other parties.

(3) Where the court appoints a hearing on the appeal the clerk of court shall intimate the date and time of the hearing to the parties.

Applications for orders preventing or restricting disclosure: prosecutor

7A.6.—(1) An application by the prosecutor for a non-notification order and an exclusion order under section 142(2)(a) of the 2010 Act shall be in Form 7A.6-A.

(2) An application by the prosecutor for an exclusion order under section 142(2)(b) of the 2010 Act shall be in Form 7A.6-B.

(3) An application by the prosecutor for a section 145 order under section 141(5) of the 2010 Act shall be in Form 7A.6-C.

(4) On an application being lodged the clerk of court shall—

(a) appoint a hearing on the application;

(b) intimate the date and time of the hearing to those parties who are entitled to be heard or represented at the hearing.

Applications for orders preventing or restricting disclosure: Secretary of State

7A.7.—(1) An application by the Secretary of State for a section 146 order under section 146(1) of the 2010 Act shall be in Form 7A.7-A.

(2) An application by the Secretary of State for a restricted notification order and a non-attendance order under section 147(2)(a) of the 2010 Act shall be in Form 7A.7-B.

(3) An application by the Secretary of State for a non-attendance order under section 147(2)(b) of the 2010 Act shall be in Form 7A.7-C.

(4) On an application being lodged the clerk of court shall—

- (a) appoint a hearing on the application;
- (b) intimate the date and time of the hearing to those parties who are entitled to be heard or represented at the hearing.

Special Counsel

7A.8.—(1) This rule applies to the appointment of special counsel under section 150(2) of the 2010 Act.

(2) Special counsel shall be appointed from a list of persons who have been nominated for that purpose by the Lord Justice General.

(3) Where the information which is the subject of the application or appeal concerned is classified, the person appointed must have appropriate security clearance.

Appeals

7A.9.—(1) Any appeal mentioned in section 153 of the 2010 Act shall be made by lodging a note of appeal in Form 7A.9.

(2) At the same time as lodging a note of appeal the appellant shall send a copy of the note of appeal to those parties who are entitled to be heard in the appeal.

(3) On an appeal being lodged the clerk of court shall—

- (a) appoint a hearing on the appeal;
- (b) intimate the date and time of the hearing to those parties who are entitled to be heard in the appeal.

Review of section 145 and 146 orders

7A.10.—(1) This rule applies to the review of—

- (a) a section 145 order under section 155(2) of the 2010 Act;
- (b) a section 146 order under section 156(2) of the 2010 Act.

(2) An application shall be in Form 7A.10.

(3) On an application being lodged the clerk of court shall—

- (a) appoint a hearing on the application;
- (b) intimate the date and time of the hearing to those parties who are entitled to be heard on the application.

Review by court of section 145 and 156 orders

7A.11.—(1) This rule applies where the court appoints a hearing under section 157(3) of the 2010 Act.

(2) The clerk of court shall intimate the date and time of the hearing to those parties who would be entitled to be heard on an application mentioned in Rule 7A.10.

Applications during trials etc.

7A.12.—(1) This rule applies where a case has called for its trial diet, or any other hearing.

(2) During the diet or hearing, an application for—

- (a) any of the orders mentioned in Rule 7A.6 or Rule 7A.7;
- (b) any of the reviews mentioned in Rule 7A.10,

may be made verbally (that is without the need for a form).

Storage of sensitive information

7A.13.—(1) This rule applies where the court, in considering any application or appeal mentioned in this Chapter, receives or has had disclosed to it information which is classified.

(2) The record of the hearing and any retained documents shall be stored by the court in appropriate security conditions.”.

(3) In the appendix, after Form 7.9, insert the forms set out in the Schedule to this Act of Adjournal.

Edinburgh
5th April 2011

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