

2011 No. 290

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules Amendment No.5)
(Miscellaneous) 2011**

Made - - - - - *28th June 2011*

Laid before the Scottish Parliament *29th June 2011*

Coming into force - - - *12th July 2011*

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(a) and of all other powers enabling them in that behalf do hereby enact and declare:

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment No.5) (Miscellaneous) 2011.

(2) It comes into force on 12th July 2011.

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

(4) The Criminal Procedure Rules 1996(b) are amended in accordance with the following paragraphs.

Disclosure

2.—(1) In Chapter 7A (disclosure)(c)—

(a) in rule 7A.6(2), after “section 142(2)(b)” insert “or section 142(3)”;

(b) in rule 7A.7(3), after “section 147(2)(b)” insert “or section 147(3)”.

(2) In the appendix, for Forms 7A.6-A, 7A.6-B, 7A.7-B, 7A.7-C and 7A.10 substitute respectively Forms 7A.6-A, 7A.6-B, 7A.7-B, 7A.7-C and 7A.10 set out in Part 1 of the Schedule to this Act of Adjournal.

(a) 1995 c.46.

(b) 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. 2011/242.)

(c) Chapter 7A was inserted by S.S.I. 2011/242.

Form of non-harassment order

3. In the appendix, for Form 20.10A(a) substitute Form 20.10A set out in Part 2 of the Schedule to this Act of Adjournal.

Edinburgh
28th June 2011

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

(a) Form 20.10A was inserted by S.S.I. 1997/1526.

SCHEDULE

PART 1

Paragraph 2(2)

Form 7A.6-A

Rule 7A.6(1)

Form of application by the prosecutor for a non-notification order and an exclusion order under section 142(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[*or* UNTO THE HONOURABLE THE SHERIFF
OF (*name of sheriffdom*) AT (*place*)]

APPLICATION

by

HER MAJESTY'S ADVOCATE [*or* PROCURATOR FISCAL]

(*address*)

APPLICANT

Prosecution reference:

Court reference:

HUMBLY SHEWETH, that:

1. The prosecutor, in terms of section 141 of the Criminal Justice and Licensing (Scotland) Act 2010, is required to apply to the court for a section 145 order.
2. The prosecutor considers that disclosure to the accused of the making of the application for the section 145 order would be likely to cause a real risk of substantial harm or damage to the public interest.
3. The prosecutor applies to the court for a non-notification order and an exclusion order under section 142(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] to make a non-notification order and an exclusion order under section 143(5) and 143(7) of the Criminal Justice and Licensing (Scotland) Act 2010.

IN RESPECT WHEREOF

(*Signed*)

Prosecutor

Form 7A.6-B

Rule 7A.6(2)

Form of application by the prosecutor for an exclusion order under section 142(2)(b) [or section 142(3)] of the Criminal Justice and Licensing (Scotland) Act 2010

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[or UNTO THE HONOURABLE THE SHERIFF

OF (*name of sheriffdom*) AT (*place*)]

[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT

OF (*name of sheriffdom*) AT (*place*)]

APPLICATION

by

HER MAJESTY'S ADVOCATE [or PROCURATOR FISCAL]

(*address*)

APPLICANT

Prosecution reference:

Court reference:

HUMBLY SHEWETH, that:

1. The prosecutor, in terms of section 141 of the Criminal Justice and Licensing (Scotland) Act 2010, is required to apply to the court for a section 145 order.
2. The prosecutor considers that disclosure to the accused of the nature of the information to which the application for the section 145 order relates would be likely to cause a real risk of substantial harm or damage to the public interest.
3. The prosecutor applies to the court for an exclusion order under section 142(2)(b) [or section 142(3)] of the Criminal Justice and Licensing (Scotland) Act 2010.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [OR THE COURT] to make an exclusion order under section 144(4) of the Criminal Justice and Licensing (Scotland) Act 2010.

IN RESPECT WHEREOF

(*Signed*)

Prosecutor

Form 7A.7-B

Rule 7A.7(2)

Form of application by the Secretary of State for a restricted notification order and a non-attendance order under section 147(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[*or* UNTO THE HONOURABLE THE SHERIFF
OF (*name of sheriffdom*) AT (*place*)]

APPLICATION

by

SECRETARY OF STATE

(*address*)

APPLICANT

Prosecution reference:

Court reference:

HUMBLY SHEWETH, that:

1. The Secretary of State applies for a restricted notification order and a non-attendance order under section 147(2)(a) of the Criminal Justice and Licensing (Scotland) Act 2010.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] to make a restricted notification order and non-attendance order under section 148(5) and 148(7) of the Criminal Justice and Licensing (Scotland) Act 2010.

IN RESPECT WHEREOF

(*Signed*)

Applicant (*or agent for the applicant*)

Form 7A.7-C

Rule 7A.7(3)

Form of application by the Secretary of State for a non-attendance order under section 147(2)(b) [*or* section 147(3)] of the Criminal Justice and Licensing (Scotland) Act 2010

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[*or* UNTO THE HONOURABLE THE SHERIFF

OF (*name of sheriffdom*) AT (*place*)]

[*or* UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT

OF (*name of sheriffdom*) AT (*place*)]

APPLICATION

by

SECRETARY OF STATE

(*address*)

APPLICANT

Prosecution reference:

Court reference:

HUMBLY SHEWETH, that:

1. The Secretary of State applies for a non-attendance order under section 147(2)(b) [*or* section 147(3)] of the Criminal Justice and Licensing (Scotland) Act 2010.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*OR* THE COURT] to make a non-attendance order under section 149(4) of the Criminal Justice and Licensing (Scotland) Act 2010.

IN RESPECT WHEREOF

(*Signed*)

Applicant (*or agent for the applicant*)

Form 7A.10

Rule 7A.10

Form of application for review of section 145 order under section 155(2) [*or* 146 order under section 156(2)] of the Criminal Justice and Licensing (Scotland) Act 2010

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE-CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[*or* UNTO THE HONOURABLE THE SHERIFF

OF (*name of sheriffdom*) AT (*place*)]

[*or* UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT

OF (*name of sheriffdom*) AT (*place*)]

APPLICATION

by

(*name*)

(*address*)

APPLICANT

Prosecution reference:

Court reference:

HUMBLY SHEWETH, that:

1. On (*date*) the High Court [*or* Sheriff] [*or* Justice] at (*place*) made an order under section 145 [*or* 146] of the Criminal Justice and Licensing (Scotland) Act 2010 in the proceedings (*specify*).
2. The (*specify applicant*) has become aware of information that was unavailable to the court at the time the order was made.
3. In the circumstances the (*specify applicant*) considers it appropriate to apply to the court to review the order.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*OR* THE COURT] to review the section 145 [*or* 146] order.

IN RESPECT WHEREOF

(*Signed*)

Applicant (*or agent for the applicant*)

Form 20.10A

Rule 20.10A

**Form of non-harassment order made under section 234A of the Criminal
Procedure (Scotland) Act 1995**

NON HARASSMENT ORDER

Under section 234A of the Criminal Procedure (Scotland) Act 1995

COURT:
DATE:
OFFENDER:
Address:
Date of birth:

THE COURT, having convicted the offender of (*specify offence or offences*), being [an offence]
[offences] involving misconduct towards a person;

AND being satisfied, on the balance of probabilities, that it is appropriate to make an order to
protect that person from harassment or further harassment;

ORDERS that [for a period of (*specify period*) from the date of this order] [until further order] the
offender shall (*specify conduct from which offender is to refrain*).

(*Signed*)

CLERK OF COURT

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996.

Paragraph 2 amends Chapter 7A (disclosure) and related forms as they contained a number of errors.

Paragraph 3 amends Form 20.10A (form of non-harassment order) in consequence of the commencement of section 15 of the Criminal Justice and Licensing (Scotland) Act 2010, which amended section 234A of the Criminal Procedure (Scotland) Act 1995.

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