SCOTTISH STATUTORY INSTRUMENTS

2025 No. 47

HIGH COURT OF JUSTICIARY

SHERIFF APPEAL COURT

SHERIFF COURT

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2025

Made - - - -	20th February 2025
Laid before the Scottish Parliament	21st February 2025
Coming into force in accordance with paragraph 1(2) and (3)	

The High Court of Justiciary makes this Act of Adjournal under the powers conferred on it by section 305 of the Criminal Procedure (Scotland) Act 1995(**a**), section 22E(5), paragraphs 27(1) and 30(4) of Schedule 5, paragraph 24(2) of Schedule 5A, paragraph 4(2) of Schedule 6 and paragraph 5(1) of Schedule 6A of the Terrorism Act 2000(**b**), section 339ZK(5) of the Proceeds of Crime Act 2002(**c**), paragraph 24(1) and 26(5) of Schedule 2, paragraph 15(1) of Schedule 3, paragraph 5(1) of Schedule 4, paragraph 4(1) of Schedule 5 of the National Security Act 2023(**d**), and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2025.

(2) Subject to sub-paragraph (3), this Act of Adjournal comes into force on 26th March 2025.

(3) Paragraph 2(2)(a)(i) and (ii) and (b) come into force on the date that paragraph 30 of Schedule 8 of the Economic Crime and Corporate Transparency Act 2023(**e**) comes fully into force.

(4) A certified copy is to be inserted into the Books of Adjournal.

(**a**) 1995 c. 46. Section 305 was last amended by section 111(1) of the Criminal Justice (Scotland) Act 2016 (asp 1), and by S.S.I. 2015/338 and was extended by section 386(3)(a) of the Proceeds of Crime Act 2002 (c. 29), section 36A(4) of the Serious Crime Act 2007 (c. 27) and section 32(5) of the Psychoactive Substances Act 2016 (c. 2).

(**b**) 2000 c. 11. Section 22E was inserted by section 37 of the Criminal Finances Act 2017 (c. 22) and amended by section 186(15)(d) of the Economic Crime and Corporate Transparency Act 2023 (c. 56); paragraph 24(2) of Schedule 5A was inserted by paragraph 4 of Schedule 2 of the Criminal Finances Act 2017 (c. 22); Schedule 6A was inserted by paragraph 1(3) of Schedule 2 of the Anti-Terrorism, Crime and Security Act 2001 (c. 24).

(**c**) 2002 c. 29. Section 339ZK was inserted by section 12 of the Criminal Finances Act 2017 (c. 22) and amended by section 185(14)(d) of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(**d**) 2023 c. 32.

(**e**) 2023 c. 56.

Amendment of the Criminal Procedure Rules 1996

2.—(1) The Criminal Procedure Rules 1996(**a**) are amended in accordance with this paragraph.

(2) In Chapter 37AA (proceedings under the Proceeds of Crime Act 2002)(**b**)—

(a) in rule 37AA.1 (interpretation of this chapter)(**c**)—

(i) after the definition of "the 2014 Regulations" insert—

""appropriate officer" has the meaning given by section 120A(3) of the Proceeds of Crime Act 2002(**d**);";

(ii) after the definition of "compliance order" insert—

""cryptoasset" has the meaning given by section 150A(1) of the Proceeds of Crime Act 2002(**e**);";

(iii) in the definition of "relevant person" omit "further";

(b) after rule 37AA.3 (disposal of family home) insert—

"Intimation following destruction of cryptoassets

37AA.3A.—(1) Paragraph (2) applies where the sheriff has made an order under section 131AA(2)(**f**) of the Act of 2002 (destruction of seized cryptoassets).

(2) No later than 21 days after the date on which cryptoassets have been destroyed, or the last date of destruction if cryptoassets are destroyed over a number of days, an appropriate officer must intimate to the sheriff clerk the date or, as the case may be, dates of destruction and the value of the cryptoassets on such date or dates.";

(c) in rule 37AA.10 (application, discharge and variation)(**g**), in paragraph (1)(ba) omit "further".

(3) For Chapter 43 (Terrorism Act 2000 and Anti-Terrorism, Crime and Security Act 2001)(**h**) substitute—

"CHAPTER 43

TERRORISM AND NATIONAL SECURITY

Interpretation

43.1. In this Chapter—

"the 2000 Act" means the Terrorism Act 2000(**i**);

"the 2023 Act" means the National Security Act 2023(**j**);

(**a**) The Criminal Procedure Rules 1996 are in schedule 2 of the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513, last amended by S.S.I. 2024/174.
(**b**) Chapter 37AA was inserted by S.S.I. 2003/120 and last amended by S.S.I. 2018/12.
(**c**) Rule 37AA.1 was substituted by S.S.I. 2016/103 and last amended by S.S.I. 2017/429.
(**d**) Section 120A was inserted by section 53(1) and (2) of the Policing and Crime Act 2009 c. 26 and last amended by paragraph 20 of Schedule 21 of the Crime and Courts Act 2013 (c. 22).
(**e**) Section 150A was inserted by paragraph 36 of Schedule 8 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).
(**f**) Section 131AA was inserted by paragraph 30 of Schedule 8 of the Economic Crime and Corporate Transparency Act 2023 (c. 56).
(**g**) Rule 37AA.10 was relevantly amended by S.S.I. 2017/429.
(**h**) Chapter 43 was inserted by S.S.I. 2001/486 and last amended by S.S.I. 2017/429.
(**i**) 2000 c. 11.
(**j**) 2023 c. 32.

"law enforcement officer" has the meaning given by section 22B(14)(**a**) of the 2000 Act (information orders);

"relevant court" means the High Court of Justiciary or the sheriff court.

Applications for orders

43.2.—(1) An application under the following provisions of the 2000 Act is to be made by petition—

(a) section 22B(1) (information orders);

(b) paragraph 22(1) of Schedule 5 (production orders);

(c) paragraph 30(1) of Schedule 5 (explanation orders);

(d) paragraph 19(1) of Schedule 5A (disclosure orders)(**b**);

(e) paragraph 2(b) of Schedule 6 (customer information orders);

(f) paragraph 2(1) of Schedule 6A (account monitoring orders)(**c**).

(2) An application under the following provisions of the 2023 Act is to be made by petition—

(a) paragraphs 19(1) and 20(1) of Schedule 2 (production orders);

(b) paragraph 26(1) of Schedule 2 (explanation orders);

(c) paragraph 11(1) of Schedule 3 (disclosure orders);

(d) paragraph 1(1) of Schedule 4 (customer information orders);

(e) paragraph 1(1) of Schedule 5 (account monitoring orders).

(3) The sheriff may make the order sought in an application mentioned in paragraph (1)(b), (c) or (e) before intimation of that application to the person—

(a) who appears to be in possession of information to which the application relates;

(b) who is the subject of the order that was applied for.

Recall, discharge and variation of orders

43.3.—(1) An application under the following provisions is to be made by petition—

(a) paragraph 24(3) of Schedule 5A of the 2000 Act (discharge or variation of disclosure orders);

(b) paragraph 4(1) of Schedule 6A of the 2000 Act (discharge or variation of account monitoring orders);

(c) paragraph 14(1) of Schedule 3 of the 2023 Act (discharge or variation of disclosure orders);

(d) paragraph 4(1) of Schedule 4 of the 2023 Act (discharge or variation of customer information orders);

(e) paragraph 3(1) of Schedule 5 of the 2023 Act (discharge or variation of account monitoring orders).

(2) The relevant court may make an order sought in an application under—

(a) paragraph 24(3)(a) of Schedule 5A of the 2000 Act (discharge or variation of disclosure orders);

(b) paragraph 4(1)(a) of Schedule 6A of the 2000 Act (discharge or variation of account monitoring orders);

(**a**) Section 22B was inserted by section 37 of the Criminal Finances Act 2017 (c. 22) and amended by section 186(1) to (12) of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(**b**) Part 2 of Schedule 5A was inserted by paragraph 4 of Schedule 2 of the Criminal Finances Act 2017 (c. 22).

(**c**) Schedule 6A was inserted by paragraph 1(3) of Schedule 2 of the Anti-Terrorism, Crime and Security Act 2001 (c. 24).

(c) paragraph 14(1)(a) of Schedule 3 of the 2023 Act (discharge or variation of disclosure orders);

(d) paragraph 4(1)(a) of Schedule 4 of the 2023 Act (discharge or variation of customer information orders);

(e) paragraph 3(1)(a) of Schedule 5 of the 2023 Act (discharge or variation of account monitoring orders),

before intimation of the application to the person who is subject to the order or appears to that court to be affected by the order.

(3) Paragraphs (4) to (6) apply to an application to recall or vary an order made under—

(a) paragraph 22 of Schedule 5 of the 2000 Act (production orders);

(b) paragraph 30 of Schedule 5 of the 2000 Act (explanation orders);

(c) paragraphs 19 and 20 of Schedule 2 of the 2023 Act (production orders);

(d) paragraph 26 of Schedule 2 of the 2023 Act (explanation orders).

(4) An application to recall or vary an order mentioned in paragraph (3)—

(a) is to be made by petition; and

(b) may be made by—

(i) a person subject to an order;

(ii) the procurator fiscal.

(5) Subject to paragraph (6), the sheriff must, within 48 hours of an application being lodged, appoint a hearing and order intimation of the application and hearing to—

(a) the procurator fiscal, where the application is made by a person subject to the order;

(b) the person subject to the order, where the application is made by the procurator fiscal.

(6) Where the sheriff directs on grounds of urgency, the sheriff may dispense with intimation under paragraph (5)(b).

Applications for warrants

43.4.—(1) A written application for a warrant or extension of a warrant, under the following provisions is to be made by petition—

(a) section 42(1) of the 2000 Act (search warrant for the purpose of checking if a terrorist suspect is at premises);

(b) section 43D(1) of the 2000 Act (search of premises of offender released on licence for purposes connected with protection from risk of terrorism)(**a**);

(c) paragraphs 28(1) (search warrant for the purpose of a terrorist investigation) and 31A(2) (warrant authorising the retention of confidential journalistic material)(**b**) of Schedule 5 of the 2000 Act;

(d) paragraphs 29(1) (warrants of further detention) and 36(1) (extension of further detention warrants) of Schedule 8 of the 2000 Act(**c**);

(e) paragraphs 25(1) (warrants for the search, seizure and retention of material if a production order is not complied with) and 28(2) (warrant authorising the retention of confidential journalistic material) of Schedule 2 of the 2023 Act;

(**a**) Section 43D was inserted by section 186 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

(**b**) Paragraph 31A of Schedule 5 was inserted by paragraph 2(7) of Schedule 17 of the National Security Act 2023 (c. 32).

(**c**) Paragraph 29(1) of Schedule 8 was last amended by section 23(2) of the Terrorism Act 2006 (c. 11) ("the 2006 Act"); paragraph 36(1) of that Schedule was last amended by section 23(6) and Schedule 3 of the 2006 Act.

(f) paragraphs 37(1) (warrants of further detention) and 44(1) (extensions of further detention warrants) of Schedule 6 of the 2023 Act;

(g) paragraph 8(1) (search warrant for compliance purposes with Part 2 notice) of Schedule 11 of the 2023 Act.

Appeal to the Sheriff Appeal Court

43.5.—(1) An appeal to the Sheriff Appeal Court under section 22D(1) of the 2000 Act (appeals)(**a**) is to be made by lodging a note of appeal in Form 43.5.

(2) When an appeal is lodged, the court must—

(a) order intimation of the appeal to—

(i) the law enforcement officer and to any other person who was a party to the proceedings on the application, where a respondent to the proceedings on the application is the appellant; or

(ii) any respondent to the proceedings on the application, where the law enforcement officer is the appellant; and

(b) appoint a hearing on the appeal.".

(4) In the appendix—

(a) Form 43.3 (form of appeal against the making of, or the refusal to make, a further information order) is renumbered Form 43.5;

(b) in Form 43.5—

(i) for "Rule 43.3(1)" substitute "Rule 43.5(1)";

(ii) in each place where it occurs, for "a further information order" substitute "an information order".

PAUL CULLEN
Lord Justice General
I.P.D.

Edinburgh
20th February 2025

(**a**) Section 22D was inserted by section 37 of the Criminal Finances Act 2017 (c. 22) and amended by section 186(15) of the Economic Crime and Corporate Transparency Act 2023 (c. 56).

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996.

Paragraph 2(2) and (4) amends Chapter 37AA (Proceeds of Crime) and the appendix to the Criminal Procedure Rules 1996, in consequence of amendments made by the Economic Crime and Corporate Transparency Act 2023. These amendments replace references to "further information orders" by "information orders" and require an appropriate officer to inform the sheriff clerk of the date of destruction and value on that date of cryptoassets destroyed in compliance with an order under section 131AA of the Proceeds of Crime Act 2002.

Paragraph 2(3) substitutes Chapter 43 (Terrorism and National Security) in consequence of the National Security Act 2023 ("the 2023 Act") to provide that applications for the making, discharge, recall or variation of various orders and warrants under that Act must be by petition. Provision is made in respect of whether certain applications are to be intimated. Provision is also made to replace temporary provision in the 2023 Act for the intimation of applications to recall or vary production and explanation orders.

New Chapter 43 also retains, with modifications, the process and procedures previously set out for analogous orders made under the Terrorism Act 2000 ("the 2000 Act"). Provision is now made that applications for explanation orders under the 2000 Act can be granted by a sheriff before intimation and that applications for certain warrants under the 2000 Act must be by petition. Provision is made in respect of whether certain applications are to be intimated. Provision is also made to replace temporary provision for the intimation of applications to recall or vary production and explanation orders made under the 2000 Act.

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