STATUTORY INSTRUMENTS

1985 No. 316 (S. 33)

HIGH COURT OF JUSTICIARY, SCOTLAND
SHERIFF COURT, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

Act of Adjournal (Interim Hospital Orders) 1985

Made - - - -	*1st March* 1985
Coming into Operation	*25th March* 1985

The Lord Justice General, Lord Justice Clerk and Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by sections 282 and 457 of the Criminal Procedure (Scotland) Act 1975(**a**), and of all other powers competent to 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 (Interim Hospital Orders) 1985 and shall come into operation on 25th March 1985.

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

(3) In this Act of Adjournal—

"the 1975 Act" means the Criminal Procedure (Scotland) Act 1975(**b**); and

"the clerk of court" means the Clerk of Justiciary or the Sheriff Clerk as the case may be.

(4) Words and expressions used in this Act of Adjournal which are also used in the 1975 Act have the same meaning as in that Act.

(5) In this Act of Adjournal, a form referred to by number means the form so numbered in the Schedule to this Act of Adjournal or a form substantially to the same effect, with such variation as circumstances may require.

Application to renew or terminate an interim hospital order

2.— (1) Where the court has made or renewed an interim hospital order under section 174A or 375A of the 1975 Act and the responsible medical officer has indicated to the prosecutor either—

(*a*) that he seeks a continuation of the order; or

(**a**) 1975 c. 21.

(**b**) 1975 c. 21, as amended by the Mental Health (Amendment) (Scotland) Act 1983 (c. 39), section 34 and as further amended by the Mental Health (Scotland) Act 1984 (c. 36), section 127(1) and Sch. 3, paras. 25 and 32.

(*b*) that he seeks termination of the order before the date on which it would otherwise cease to have effect,

the prosecutor shall make an application in Form 1, to the Court which made the order, to renew or terminate the order as the case may be.

(2) Where an application is made under sub-paragraph (1)—

(*a*) the court shall, by interlocutor in Form 2, appoint a diet for hearing the application and, where appropriate, grant warrant to authorised officers of the hospital, or officers of law, for conveyance of the offender from the hospital to the court for that diet; and

(*b*) the clerk of court shall intimate the application and the diet to the offender or his solicitor.

(3) Where, in an application under sub-paragraph (1)(*a*), the Court renews an interim hospital order before the date on which the order would otherwise cease to have effect, the period of renewal shall commence from the date on which the order would otherwise cease to have effect.

Discharge of adjourned diet previously fixed

3. Where the court makes an order to renew or terminate an interim hospital order before the date on which it would otherwise cease to have effect, the adjourned diet fixed when the previous order of the court was made shall be held to be discharged.

Emslie,
Lord Justice General
I.P.D.

Edinburgh.
1st March 1985.

SCHEDULE

Form 1 para 2(1)

Application for renewal or termination of interim hospital order under section 174A(1) or 375A(1) of the Criminal Procedure (Scotland) Act 1975

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

[*or* UNTO THE HONOURABLE THE SHERIFF
OF AT]

APPLICATION

under

Section 174A(6) [*or* 375A(7)] of the
Criminal Procedure (Scotland) Act 1975

by

Her Majesty's Advocate

[*or* AB Procurator Fiscal]

in respect of
CD presently a patient in
Hospital

for

Renewal [*or* Termination] of an interim hospital order

1. On (*date*) the Court made an interim hospital order in respect of CD [which order was renewed by the Court on (*date*)].

2. The order expires on (*date*).

3. It is necessary to bring the case before the Court before the date mentioned in paragraph 2 above for the following reasons:

(*Here state reasons*)

MAY IT THEREFORE please your Lordship(s) to fix a diet for the purpose of considering this application to renew the interim hospital order [; and for that purpose to grant warrant to authorised officers of the hospital [*or* officers of law] to bring CD before the court for said diet].

[*Or* MAY IT THEREFORE please your Lordship(s) to fix a diet for the purpose of considering this application and further information now available with a view to making a final disposal of the case; and for that purpose to grant warrant to authorised officers of the hospital [*or* officers of law] to bring CD before the Court for said diet.]

According to Justice, etc.

(*Signed*)

for Her Majesty's Advocate
[*or* Procurator Fiscal [Depute]]

(*Place and Date*)

Form 2 para 2(2)

Form of Order for diet of hearing, and Warrant for conveyance of offender to Court for hearing, of application for renewal or termination of interim hospital order

(*place*) (*date*) 19

Appoints the day of 19 at within as a diet for hearing the foregoing application; Grants warrant to [authorised officers of hospital] [officers of law] to bring before the court for said diet.

(*Signed*)

[Lord Commissioner of Justiciary]
[Sheriff]

EXPLANATORY NOTE

(This Note is not part of the Act of Adjournal.)

This Act of Adjournal makes provision for the procedure to be adopted where, an interim hospital order having been made under section 174A(1) or 375A(1) of the Criminal Procedure (Scotland) Act 1975 by the High Court or the Sheriff Court as the case may be, it is sought to renew, further renew, or terminate before the date on which it would otherwise cease to have effect, such an order on the evidence of the responsible medical officer in the hospital in which the offender has been detained.

SI 1985/316
ISBN 0-11-056316-6

