

2015 No. 84

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules Amendment)
(Reporting Restrictions) 2015**

Made - - - - - *26th February 2015*

Laid before the Scottish Parliament *2nd March 2015*

Coming into force - - - *1st April 2015*

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 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) (Reporting Restrictions) 2015.

(2) It comes into force on 1st April 2015.

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

Amendment of the Act of Adjournal (Criminal Procedure Rules) 1996

2.—(1) The Criminal Procedure Rules 1996(b) are amended in accordance with the following subparagraphs.

(2) For Chapter 56 (reporting restrictions under the Contempt of Court Act 1981)(c), substitute—

(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. 2014/349.

(c) Chapter 56 was inserted by S.S.I. 2011/194.

“CHAPTER 56
REPORTING RESTRICTIONS

Interpretation and application of this Chapter

- 56.1.**—(1) This Chapter applies to orders which restrict the reporting of proceedings.
- (2) In this Chapter, “interested person” means a person—
- (a) who has asked to see any order made by the court which restricts the reporting of proceedings, including an interim order; and
 - (b) whose name is included on a list kept by the Lord Justice General for the purposes of this Chapter.

Interim orders: notification to interested persons

- 56.2.**—(1) Where the court is considering making an order, it may make an interim order.
- (2) Where the court makes an interim order, the clerk of court shall immediately send a copy of the interim order to any interested person.
- (3) The court shall specify in the interim order why it is considering making an order.

Interim orders: representations

- 56.3.**—(1) Paragraph (2) applies where the court has made an interim order.
- (2) An interested person who would be directly affected by the making of an order shall have an opportunity to make representations to the court before an order is made.
- (3) Representations shall—
- (a) be made in Form 56.3;
 - (b) where an urgent hearing is sought, include reasons explaining why an urgent hearing is necessary;
 - (c) be lodged no later than 2 days after the interim order is sent to interested persons in accordance with rule 56.2(2).
- (4) Where the period for lodging representations expires on a Saturday, Sunday or public or court holiday, it shall be deemed to expire on the next day on which—
- (a) the Judiciary Office is open, where the interim order was made by the High Court; or
 - (b) the sheriff clerk’s office is open for criminal court business, where the interim order was made by the sheriff or the JP court.
- (5) On representations being made—
- (a) the court shall appoint a date and time for a hearing—
 - (i) on the first suitable court day thereafter; or
 - (ii) when the court is satisfied that an urgent hearing is necessary, at such earlier date and time as the court may determine;
 - (b) the clerk of court shall—
 - (i) notify the date and time of the hearing to the parties to the proceedings and the person who has made representations;
 - (ii) send a copy of the representations to the parties to the proceedings.
- (6) Where no interested party makes representations in accordance with rule 56.3(2), the clerk of court shall put the interim order before the court in chambers in order that the court may resume consideration as to whether to make an order.

(7) Where the court, having resumed consideration under rule 56.3(6), makes no order, it shall recall the interim order.

(8) Where the court recalls an interim order, the clerk of court shall immediately notify any interested person.

Notification of reporting restrictions

56.4. Where the court makes an order, the clerk of court shall immediately—

- (a) send a copy of the order to any interested person;
- (b) arrange for the publication of the making of the order on the Scottish Court Service website.

Applications for variation or revocation

56.5.—(1) A person aggrieved by an order may apply to the court for its variation or revocation.

(2) An application shall be in Form 56.5.

(3) On an application being made—

- (a) the court shall appoint the application for a hearing;
- (b) the clerk of court shall—
 - (i) notify the date and time of the hearing to the parties to the proceedings and the applicant;
 - (ii) send a copy of the application to the parties to the proceedings.

(4) The hearing shall, so far as reasonably practicable, be before the judge or judges who made the order.”.

(3) In the appendix—

- (a) for Form 56.3(a) substitute Form 56.3 set out in the Schedule to this Act of Adjournal;
- (b) after Form 56.3, insert Form 56.5 set out in the Schedule to this Act of Adjournal.

BRIAN GILL
Lord Justice General
I.P.D.

Edinburgh
26th February 2015

(a) Form 56.3 was inserted by S.S.I. 2011/194.

SCHEDULE

Paragraph 2(3)

Form 56.3

Rule 56.3(3)(a)

Form of representations about a proposed order restricting the reporting of proceedings

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*)]

REPRESENTATIONS

by

(*name*)

(*address*)

APPLICANT

HUMBLY SHEWETH, that:

1. On (*date*) the High Court [*or Sheriff*] [*or Justices*] at (*place*) made an interim order under rule 56.2(1) of the Criminal Procedure Rules 1996 in the proceedings (*name of case and court reference if known*).
2. The applicant is a person who would be directly affected by an order restricting the reporting of proceedings for the following reasons:— (*here state reasons*)
3. The applicant wishes to make the following representations:— (*here state representations*)
- [4. The applicant seeks an urgent hearing on these representations for the following reasons:— (*here state why an urgent hearing is necessary*)]

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*or THE COURT*] to fix a hearing to consider these representations.

IN RESPECT WHEREOF

(*Signed*)

Applicant [*or legal representative of the applicant*]

(*address, e-mail address and telephone number*)

Form 56.5

Rule 56.5(2)

Form of application for variation or revocation of an order restricting the reporting of proceedings

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

HUMBLY SHEWETH, that:

1. On (*date*) the High Court [*or Sheriff*] [*or Justices*] at (*place*) made an order restricting the reporting of proceedings in the proceedings (*name of case and court reference if known*).
2. The applicant seeks the variation or revocation of the order for the following reasons:— (*here state reasons*)

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*or THE COURT*] to fix a hearing to consider this application.

IN RESPECT WHEREOF

(*Signed*)

Applicant [*or legal representative of the applicant*]

(*address, e-mail address and telephone number*)

EXPLANATORY NOTE

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

This Act of Adjournal amends the Criminal Procedure Rules 1996 in respect of orders which restrict the reporting of proceedings.

Paragraph 2 extends the current rules which deal with orders made under section 4(2) of the Contempt of Court Act 1981 to all orders that restrict the reporting of proceedings.

In addition, the new rules allow a court considering making such an order to make an interim order. This allows an interested person who would be directly affected by the making of an order an opportunity to make representations to the court before an order is made.

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£6.00

S201502261000 03/2015 19585

<http://www.legislation.gov.uk/id/ssi/2015/84>

ISBN 978-0-11-102676-2



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