
SCOTTISH STATUTORY INSTRUMENTS

2022 No.

HIGH COURT OF JUSTICIARY

SHERIFF APPEAL COURT

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules 1996 Amendment)
(European Union (Future Relationship) Act 2020) 2022**

<i>Made</i>	- - - -	2022
<i>Laid before the Scottish Parliament</i>		2022
<i>Coming into force</i>	- -	2022

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 210 of the Extradition Act 2003(b) 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) (European Union (Future Relationship) Act 2020) 2022.

(2) It comes into force on [date].

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

Amendment of the Criminal Procedure Rules 1996

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

(2) In Chapter 34A (interpretation and translation in European Arrest Warrant proceedings)(d)—

(a) in the chapter heading, for “EUROPEAN ARREST WARRANT” substitute “PART 1”;

(b) in rule 34A.(1) (interpretation and application), omit the definition of “the Directive”;

(a) 1995 c. 46. Section 305 was 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) 2003 c. 41.

(c) 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. 2022/[231].

(d) Chapter 34A was inserted by S.S.I. 2014/242.

- (c) in rule 34A.2 (right to interpretation assistance), in paragraph (2)(b) omit “in accordance with the Directive”.
- (3) The following provisions are revoked—
 - (a) Chapter 61 (European Protection Orders)(a);
 - (b) Chapter 67 (European Investigation Orders)(b);
 - (c) in the appendix, Forms 61.3 to 61.7-B and 67.2 to 67.9.

Saving

- 3.** The amendments made by paragraph 2 have no effect in respect of—
- (a) a European Protection Order received by the Lord Advocate or by the High Court, the Sheriff Appeal Court, a sheriff or a justice of the peace court before 31st December 2020;
 - (b) a European Protection Order issued under section 254B(2) of the Criminal Procedure (Scotland) Act 1995 before 1st December 2022;
 - (c) a European Investigation Order received by the Lord Advocate or the executing authority (as defined in Article 2(d) of Chapter 1 of Directive 2014/41/EU of the European Parliament and of the Council of 3rd April 2014 regarding the European Investigation Order in criminal matters)(c) before 31st December 2020.

CJM SUTHERLAND
Lord Justice General
I.P.D.

Edinburgh
2022

(a) Chapter 61 was inserted by S.S.I. 2015/121 and last amended by S.S.I. 2015/201.
(b) Chapter 67 was inserted by S.S.I. 2018/150.
(c) OJ, L 130, 1.5.2014, p. 1.

EXPLANATORY NOTE

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

This Act of Adjournal makes necessary consequential amendments to the Criminal Procedure Rules 1996 (“the 1996 Rules”) following upon the United Kingdom leaving the European Union on 31st December 2020, and in consequence of the European Union (Future Relationship) Act 2020.

Paragraph 2(1) amends the heading of Chapter 34A, omitting reference to European Arrest Warrant. After the transition period (which ended on 31st December 2020), Directive 2010/64/EU has no legal effect in Scotland and European Arrest Warrants are obsolete.

Paragraphs 2(2) (b) and (c) amend rules 34A.1 and 34A.2 to remove references to Directive 2010/64/EU. Chapter 34A now applies to all Part 1 warrants, of which European Arrest Warrants are a subset.

Paragraph 2(3) removes all reference to European Protection Orders (“EPO”) and European Investigation Orders (“EIO”) respectively from the 1996 Rules by revoking Chapters 61 and 67 and associated forms. After 31st December 2020, both EPOs and EIOs are obsolete.

Paragraph 3 makes saving provision in respect of any EPO or EIO received before the end of the transition period and in respect of any EPOs issued before 1st December 2022 which is the date that the Civil Protection Measures, European Protection Order and Victims’ Rights (EU Exit) (Scotland) (Amendment Etc.) Regulations 2022 (SSI 2022/249) come into force.