
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 121

**HIGH COURT OF JUSTICIARY
SHERIFF COURT
JUSTICE OF THE PEACE COURT**

**Act of Adjournal (Criminal Procedure Rules
Amendment No. 2) (European Protection Orders) 2015**

<i>Made</i>	- - - -	<i>18th March 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>19th March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

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(1), 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 No. 2) (European Protection Orders) 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(2) are amended in accordance with this paragraph.

(2) After Chapter 60 (Regulatory Reform (Scotland) Act 2014)(3), insert—

(1) 1995 c.46.

(2) 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. 2015/84).

(3) Chapter 60 was inserted by S.S.I. 2014/162.

“CHAPTER 61 EUROPEAN PROTECTION ORDERS

Interpretation

61.1. In this Chapter words and expressions have the same meaning as that given by section 254A or section 254B(7) of the Act of 1995(4).

Information about European Protection Orders

- 61.2.**—(1) Where a court makes a protection measure, it must—
- (a) where the protection measure is made before conviction, direct the prosecutor to inform the protected person under paragraph (2); or
 - (b) otherwise, direct the clerk of court to inform the protected person under paragraph (2).
- (2) A person is informed under this paragraph if—
- (a) informed of the possibility of applying for a European Protection Order if that person decides to reside or stay in another Member State of the European Union and of the basic conditions for making such a request; and
 - (b) advised that an application for a European Protection Order should be made before leaving the United Kingdom.

Application for a European Protection Order

- 61.3.**—(1) An application is to be made by minute in Form 61.3.
- (2) An application which relates to a protection measure issued by a court in Scotland must be made to the court which issued that protection measure.
- (3) The court must send to the competent authority of the issuing state an application which relates to a protection measure issued in the issuing state.
- (4) An application may be granted by the court in chambers.

Issuing of a European Protection Order

- 61.4.**—(1) A European Protection Order is to be issued in Form 61.4-A.
- (2) Where the court refuses an application, it must send that decision to the protected person in Form 61.4-B.
- (3) The court must arrange for the translation of a European Protection Order into the official language (or into one of the official languages) of the executing state.

Recognition of a European Protection Order

- 61.5.**—(1) Where the sheriff has to inform the competent authority of the issuing state of refusal and the grounds of refusal under section 254C(5) of the Act of 1995, it must be done in Form 61.5-A.
- (2) Where the sheriff has to inform the protected person of refusal and the grounds of refusal under section 254C(5) of the Act of 1995, it must be done in Form 61.5-B.

(4) Section 254A to 254E were inserted by [S.S.I. 2015/107](#).

Implementation of a recognised European Protection Order

61.6.—(1) A non-harassment order made under section 245D of the Act of 1995 is to be made in Form 61.6-A.

(2) An order may be granted by the sheriff in chambers.

(3) Where the sheriff has to provide information under section 254D(6) of the Act of 1995, it must be done in Form 61.6-B.

(4) Where the court must notify the competent authority of the issuing state of a conviction under section 254D(8) of the Act of 1995, it must send that notification in Form 61.6-C.

(5) The court must arrange for the translation of a notification under paragraph (4) into the official language (or into one of the official languages) of the issuing state.

Modification and revocation of a non-harassment order

61.7.—(1) An application by an offender to modify or revoke a non-harassment order under section 254E (3) or (5) of the Act of 1995 is to be made in Form 61.7-A.

(2) Where the sheriff has to provide information under section 254E(6) of the Act of 1995, it must be done in Form 61.7-B.

Translation free of charge

61.8. Translation required under this Chapter must be provided free of charge.

Where competent authority not known

61.9.—(1) This rule applies where the court has to send information to the competent authority of an issuing state under rule 61.3(4), 61.5(1), 61.6(3) or (4) or 61.7(2), but that competent authority is not known to the court.

(2) The court must make all relevant inquiries to identify the competent authority, including via the contact points of the European Judicial Network referred to in the Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network⁽⁵⁾, the National Member of Eurojust or the National System for the coordination of Eurojust of the United Kingdom.”.

(3) In the appendix, after Form 60.4, insert the Forms set out in the Schedule to this Act of Adjournal.

Edinburgh
18th March 2015

Brian Gill
Lord Justice General
I.P.D.

(5) O.J. L348, 24.12.2008, p. 130.

SCHEDULE

Paragraph 2(3)

Form 61.3

Rule 61.3(1)

FORM OF A MINUTE UNDER SECTION
PROCEDURE (SCOTLAND) ACT 1995 FOR
ORDER

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE CLERK
CLERK AND THE LORDS COMMISSIONERS

[*or* UNTO THE HONOURABLE THE SHERIFF OF

[*or* UNTO THE JUSTICES IN JUSTICE OF THE PEACE
(*place*)]

MINUTE

by

[A.B.] (*address*)

HUMBLY SHEWETH:

1. That the applicant is the subject of a protection measure

Form 61.4–1

Rule 61.4(1)

FORM OF EUROPEAN PROTECTION ORDER

issued under

**DIRECTIVE 2011/99/EU OF THE EUROPEAN PARLIAM
13TH DECEMBER 2011 ON THE EUROPEAN PROTECTION ORDER**

The information contained in this form is to be treated as confidential.

Issuing State:

Executing State:

(a) Information regarding the protected person:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Sex:

Nationality:

Where the protected person is a minor or is legally person's guardian or representative:

Surname:

Forename(s):

Maiden name or previous name, where applicable

Sex:

Nationality:

Office/Address:

- (b) The protected person has decided to reside or already decided to stay or already stays in the executing S

Date from which the protected person intends to r known):

Period(s) of stay (if known):

- (c) Have any technical devices been provided to the p danger to enforce the protection measure:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail (if any):

Languages that may be used for communication:

- (e) Identification of the protection measure on the basis of which the protection measure has been issued:

The protection measure was adopted on (date: DD/MM/YYYY):

The protection measure became enforceable on (date: DD/MM/YYYY):

File reference of the protection measure (if available):

Authority that adopted the protection measure:

- (f) Summary of the facts and description of the circumstances leading to the classification of the offence — which have led to the measure mentioned under (e) above:

- (g) Indications regarding the prohibition(s) or restriction(s):

a prohibition or regulation on approaching prescribed distance;

— if you ticked this box, please indicate causing danger has to observe in res

— Please indicate the length of time during w or restriction(s) are imposed on the person

— Indication of the penalty (if any) in the eve restriction:

— elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

— Type and number of the identity document(s):

Has the person causing danger been granted free legal aid (if available without further enquiry)?

Yes.

No.

Unknown

(i) Other circumstances that could have an influence on the protection of the protected person (optional information):

(j) Other useful information (such as, where available, States where protection measures have been previously granted to the protected person):

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Date:

File reference (*if any*):

(Where appropriate) Official stamp:

Form 61.4–3

Rule 61.4(2)

**INTIMATION TO PROTECTED PERSON
EUROPEAN PROTECTION ORDER**

In the application

[here insert name of protected person]

For a European Protection Order

[insert date]

To *[insert name and address of protected person]*

The High Court *[or the sheriff at (place)]* *[or the justices of the peace at (place)]* request to issue a European protection order because

[here insert brief reasons].

Form 61.5–

Rule 61.5(1)

**INTIMATION TO COMPETENT AUTHORITY
EUROPEAN PROTECTION ORDER**

In the application

[here insert name of protection order]

For a European Protection Order

[insert date]

To *[insert name and address of competent authority including court name]*

The sheriff at (*place*) has REFUSED the request of *[insert name of applicant]* for a European protection order because:

[here insert brief reasons].

Form 61.5–

Rule 61.5(2)

**INTIMATION TO PROTECTED PERSON OF
EUROPEAN PROTECT**

In the application

[here insert name of prote

For a European Protect

[insert date]

To *[insert name and address of protected person]*

The sheriff at *[insert name of sheriff court]* has REFUSE
protection order because:

[here insert brief reasons].

Form 61.6—

Rule 61.6(1)

**FORM OF NON-HARASSMENT ORDER MADE UNDER
THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995**

NON-HARASSMENT ORDER

under section 254D of the Criminal Procedure (Scotland) Act 1995

COURT:

DATE:

OFFENDER:

Address:

Date of birth:

THE COURT, having recognised a European Protection Order under the
Criminal Procedure (Scotland) Act 1995 [*here insert reference number*]

Form 61.6—

Rule 61.6(3)

**FORM OF INFORMATION REGARDING A
UNDER SECTION 254D OF THE CRIMINAL
ACT 1995**

To: *(name and address of offender) [or (name and address of competent authority of issuing State)]*

Date:

TAKE NOTICE:

On *(date)* the sheriff at *(place)* made a non-harassment order under the Criminal Procedure (Scotland) Act 1995.

Breach of this non-harassment order is an offence under the Criminal Procedure (Scotland) Act 1995.

Conviction of an offence under section 234A(4) of the Criminal Procedure (Scotland) Act 1995, as modified by section 254D(2) may attract the following penalties:

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, to a fine, or to both such imprisonment and a fine;

Form 61.6–0

Rule 61.6(4)

**NOTIFICATION OF A BREACH OF THE ME
OF THE EUROPEAN PROT**

The information contained in this form is to be tre

- (a) Details of the identity of the person causing dange

Surname:

Forename(s):

Maiden or previous name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any)

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(c) Details of the European protection order:

Order issued on:

File reference (if any):

Authority which issued the order:

Official name:

Address:

(d) Details of the authority responsible for the execution of the order which was taken in the executing State in line with

Official name of the authority:

- a prohibition from entering certain localities where a protected person resides or visits;
- a prohibition or regulation of contact, in any form, including by phone, electronic or ordinary means;
- a prohibition or regulation on approaching a protected person at a prescribed distance;
- any other measure, corresponding to the protection order, taken by the competent authorities following recognition of the European protection order.

Description of the breach(es) (place, date and specific details):

In accordance with Article 11(2):

- measures taken in the executing State as a result of the breach;
- possible legal consequence of the breach in the executing State.

Other findings which could result in taking any such measures:

Description of the findings:

Position (title/grade):

Date:

Official stamp (where applicable):

Form 61.7–

Rule 61.7(1)

FORM OF APPLICATION UNDER SECTION 61.7(1)
PROCEDURE (SCOTLAND)

UNTO THE HONOURABLE THE SHERIFF

AT *(place)*

Application

by

(name of offender) (address)

APPLICANT

HUMBLY SHEWETH:

1. That a non-harassment order, a copy of which is annexed to this application, was made in respect of *(name of offender)* on *(date)* in the sheriff court at *(place)*.
2. That the applicant applies to the court in terms of section 61.7(1) of the Domestic Abuse (Scotland) Act 1995 to modify *(or revoke)* the order for

Form 61.7–

Rule 61.7(2)

**FORM OF INFORMATION REGARDING MODIFICATION
OF A NON-HARASSMENT ORDER UNDER
CRIMINAL PROCEDURE (SCC)**

In the application

[here insert name of protected person]

For a European Protection Order

To: *(name and address of offender) [or (name and address of competent authority of issuing State)].*

Date:

TAKE NOTICE:

The sheriff at *(place)* has REVOKED *[or MODIFIED]* the order made by the sheriff at *(place)* under section 254D of the Criminal Justice Act 2003.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

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

This Act of Adjournal inserts a new Chapter 61 (European Protection Orders) into the Criminal Procedure Rules 1996 to make provision in consequence of Directive 2011/99/EU of the European Parliament and of the Council of 18th December 2011 on the European Protection Order.

When an order granted in criminal proceedings in the High Court, the sheriff court or Justice of the Peace Court is a protection measure for the purposes of the Directive, the rules make provision for the protected person to be informed of the possibility of applying for a European Protection Order. The rules make provision for the form of such applications and for the intimation of any European Protection Order so issued to relevant parties.

The rules also make provision in respect of the recognition and implementation of a European Protection Order made in another member State.