
STATUTORY INSTRUMENTS

1991 No. 2676 (S.209)

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

Act of Adjournal (Consolidation Amendment No.3) 1991

Made - - - - *26th November 1991*

Coming into force - - *18th December 1991*

The Lord Justice General, the 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(1), and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Consolidation Amendment No.3) 1991 and shall come into force on 18th December 1991.

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

Amendment of Act of Adjournal (Consolidation) 1988

2.—(1) The Act of Adjournal (Consolidation) 1988(2) shall be amended in accordance with the following sub-paragraphs.

(2) After rule 83A (Forms of warrant for execution and charge for payment of fine or other financial penalty)(3) insert the following rule—

“Use of certified copy documents in certain proceedings

83B. In proceedings relating to a probation order, a supervised attendance order, a community service order or an order which imposed a fine, in a court other than the court which made the order, the principal indictment, minute of proceedings or notice of previous convictions need not be before the court provided that it has before of the principals of such documents certified as true copies by the clerk of the court which made the order.”.

(1) 1975 c. 21.; section 282 was amended by paragraph 47 of, and section 457 by paragraph 72 of, Schedule 7 to the Criminal Justice (Scotland) Act 1980 (c. 62).
(2) S.I.1988/110; the relevant amending instrument is S.I. 1989/1020.
(3) Rule 83A was inserted by S.I. 1989/1020.

(3) In rule 84(1), in the Table, below the line which commences “238”, insert a new line as follows:—

“242	Notice to Secretary of State	40A”
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(4) After rule 126A (Forms of warrant for executions and charge for payment of fine or other financial penalty)(4) insert the following rule—

“Use of certified copy documents in certain proceedings

126B. In proceedings relating to a probation order, a supervised attendance order, a community service order or an order which imposed a fine, in a court other than the court which made the order, the principal complaint, minute of proceedings, notice of previous convictions or notice of penalty need not be before the court provided that it has before it copies of the principals of such documents certified as true copies by the clerk of the court which made the order.”.

- (5) In rule 135 (Edinburgh solicitor)—
- (a) in the heading, for the words “Edinburgh solicitor” substitute the words “Solicitor entering appearance, etc.”;
 - (b) in paragraph (1)—
 - (i) for the word “shall”, substitute the word “may”; and
 - (ii) omit the words “(“Edinburgh solicitor”),”; and
 - (c) in paragraph (3)—
 - (i) for the words “Edinburgh solicitor so appointed or”, substitute the words “appellant’s solicitor or,”; and
 - (ii) for the words “(intimation of stated case to respondent and lodging with Clerk of Justiciary together with certificate of intimation)” substitute the words “(lodging of stated case with Clerk of Justiciary)”.
- (6) In rule 136 (duty to print stated case etc.)—
- (a) in paragraph (1)—
 - (i) for the word “Edinburgh” where it first occurs substitute the word “appellant's”; and
 - (ii) omit the word “Edinburgh” where it second occurs; and
 - (b) in paragraph (2) for the word “Edinburgh”, substitute the word “appellant's”.
- (7) In rule 137 (intimation of list of appeals) in paragraph (2)—
- (i) omit the word “Edinburgh”; and
 - (ii) for the words “appellants whose appeal is” substitute the words “parties to an appeal”.
- (8) In rule 138 (duties in respect of bills of suspension)—
- (a) in the heading, omit the word “Edinburgh”; and
 - (b) in paragraph (2), for the words “An Edinburgh”, substitute the word “A”.
- (9) In rule 139 (diet for interim suspension), for the words “for the parties” where they first occur, substitute the words “or a solicitor who has a right of audience in the High Court of Justiciary for each party”.
- (10) In Schedule 1—

- (a) after Form 40, insert the form in the Schedule to this Act of Adjournal;
- (b) in Form 44—
 - (i) for the words “93 of the Road Traffic Act 1972” substitute the words “34 of the Road Traffic Offenders Act 1988”;
 - (ii) for the words “94(3) of the Road Traffic Act 1972” substitute the words “39(2) of the Road Traffic Offenders Act 1988”;
 - (iii) for the words “94B(2) of the Road Traffic Act 1972” substitute the words “41(2) of the Road Traffic Offenders Act 1988”;
- (c) in Form 78—
 - (i) after the word “proceedings” insert the words “or denial issued that the appellant was the person charged by the police with the offence”; and
 - (ii) after the word “objection” where it second appears, insert the words “or denial”; and
- (d) in Form 80—
 - (i) for the words “94(2) of the Road Traffic Act 1972” substitute the words “41(2) of the Road Traffic Offenders Act 1988”;
 - (ii) for the words “93 of the Road Traffic Act 1972” substitute the words “of the Road Traffic Offenders Act 1988”;
 - (iii) for the words “94(3) of the Road Traffic Act 1972” substitute the words “39(2) of the Road Traffic Offenders Act 1988”;
 - (iv) for the words “94B(2) of the Road Traffic Act 1972” substitute the words “41(2) of the Road Traffic Offenders Act 1988”.

Edinburgh
26th November 1991

J.A.D. Hope
Lord Justice General, IPD

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SCHEDULE

Paragraph 2(11)(a)

FORM 40A

Paragraph 2(11)(a)

SCHEDULE

Rule 84

FORM 40A

HIGH COURT OF JUSTICIARY
NOTICE TO SECRETARY OF STATE

CRIMINAL PROCEDURE (SCOTLAND) ACT 1975

To: Governor of HM Prison referred to below
(for the Secretary of State for Scotland)

Intimation of diet
under
Criminal Procedure (Scotland)
Act 1975, Section 242

Name of convicted person:

Date of birth:

Prisoner in the Prison of:

[Appeal]
[Continued Appeal]
[Petition for Bail]
[Appeal under Section [] of the Criminal
Procedure (Scotland) Act 1975]

TAKE NOTICE that the Court has fixed the [] day of [] at 10.30 am as
a diet for hearing the above Appeal/Petition.

Clerk of Justiciary

EXPLANATORY NOTE

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

This Act of Adjournal amends the Act of Adjournal (Consolidation) 1988 (S.1. 1988/110) by—

- (a) amending rule 139, so that it refers to a solicitor who has a right of audience in the High Court under section 25A of the Solicitors (Scotland) Act 1980 (c. 46) (paragraph 2(9));

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- (b) allowing solicitors who do not practise in Edinburgh to carry out the duties of a solicitor in relation to an appeal in summary proceedings (paragraphs 2(5)-(8));
- (c) prescribing a form of notice to the Secretary of State under section 242 of the Criminal Procedure (Scotland) Act 1975 (paragraphs 2(3) and (10)(a) and the Schedule);
- (d) allows use of certified copy indictments and complaints in certain proceedings (paragraphs 2(2) and 2(4)); and
- (e) updating the references in Forms 44 and 80 (paragraph 2(10) (b) and (d)).