

1981 No. 1766 (S. 182)

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND
Act of Adjournal (Procedures under Criminal Justice
(Scotland) Act 1980 No. 3) 1981

Made - - - - - *4th December 1981*
Coming into Operation *1st January 1982*

The Lord Justice General, the Lord Justice Clerk, and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred upon them by sections 282 and 457 of the Criminal Procedure (Scotland) Act 1975(a) and of all other powers enabling 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 (Procedures under Criminal Justice (Scotland) Act 1980 No. 3) 1981 and shall come into operation on 1st January 1982.

(2) In this Act of Adjournal—

(a) “the 1975 Act” means the said Act of 1975;

(b) “the 1980 Act” means the Criminal Justice (Scotland) Act 1980(b).

(3) Except where the context otherwise requires, expressions used in this Act of Adjournal and in the 1975 Act shall have the same meaning in this Act of Adjournal as in that Act, and any reference to a section by number is a reference to the section of that number in the 1975 Act.

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

Warrants for citation

2.—(1) The forms specified by number in the third column of the Table set out below and set out under those numbers in Schedule 1 to this Act of Adjournal are the forms prescribed under the 1975 Act for the purposes of the sections of that Act specified in Column 1 of the Table relating respectively to the matters summarised in Column 2 of the Table, and shall have effect for those purposes.

(a) 1975 c. 21, as amended by 1980 c. 62.

(b) 1980 c. 62.

Column 1 (No of Section)	TABLE Column 2 (Content)	Column 3 (No of Form)
69	Warrant to cite accused person, witnesses and jurors	1
69	execution of service of indictment and of citation of accused	2
75	notice to accused to appear at diet	3

(2) In the Criminal Procedure (Scotland) Act 1887(a), Schedules B and C are repealed; and the references to those Schedules in section 69 shall cease to have effect.

(3) In section 69—

(a) for the words “conform to Schedule B to the Criminal Procedure (Scotland) Act 1887” and also for the words “conform to Schedule C of that Act” substitute the words “in such form as may be prescribed by Act of Adjournal, or as nearly as may be in such form”;

(b) in the last paragraph, omit the words “The warrant and”, and for the words “B to E” substitute the words “D and E”.

*Preliminary diet
Initial Procedure*

3.—(1) Any written notice given under section 76(1) (Preliminary diet) shall be in the form of a minute as set out in Form 1 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form, having regard to the particular circumstances.

(2) Any such minute that relates to a case set down for trial in the High Court on circuit shall specify any productions required for the preliminary diet.

(3) The minute shall be lodged—

(a) if it relates to a case set down for trial in the High Court, with the Clerk of Justiciary;

(b) if it relates to a case set down for trial in the sheriff court, with the sheriff clerk;

in accordance with the provisions of this paragraph.

(4) A formal execution of prior intimation of the minute to all other parties shall be lodged at the same time as the minute; and if it is not so lodged, the Clerk of Justiciary or the sheriff clerk, as the case may be, shall refuse to accept the minute for lodging.

(5) On the lodging of the minute, the Clerk of Justiciary or the sheriff clerk, as the case may be, shall—

(a) endorse on it the time and date on which it was received;

(b) as soon as possible, place the minute before a judge.

(6) On considering the minute in the absence of parties or of any person acting on their behalf or otherwise as he thinks fit, the judge—

(a) if the minute raises a matter mentioned in paragraph (a) of section 76(1), shall make an order for a preliminary diet specifying the date and the time of the diet and the period (if any) for which the trial diet is postponed in terms of section 76(4);

(b) if the minute raises a matter mentioned in either paragraph (b) or (c) of that section, may make, or refuse to make, such an order.

(7) An order made under sub-paragraph (6) shall not be invalid by reason only of having been made in the absence of the parties or of any person acting on their behalf.

(8) Any such order shall be—

(a) endorsed on the minute;

(b) authenticated by the judge subscribing his signature;

(c) attached together with the minute to the record copy indictment.

(9) The Clerk of Justiciary or the sheriff clerk, as the case may be, shall as soon as possible after the making of any such order, intimate its terms to all parties and to the governor of any institution in which any accused is detained.

(10) Where, in relation to a case set down for trial in the sheriff court, the High Court makes an order under section 76(5) extending the period for which the trial diet has been postponed, the Clerk of Justiciary shall send a copy of the order to the appropriate sheriff clerk who shall, as soon as possible after receiving the order, intimate its terms to all parties and to the governor of any institution in which any accused is detained.

(11) Any order made under sub-paragraph (6) specifying the period for which the trial diet is postponed, and any order made under the said section 76(5) extending that period, shall, for the purposes of section 69 be treated as being a warrant issued by the Clerk of Justiciary or the sheriff clerk, as the case may be, to officers of law to cite accused persons, witnesses and jurors for the date to which the trial diet has by virtue of that order been postponed, and shall have effect for those purposes.

(12) If in relation to any case a trial diet has been postponed by virtue of an order mentioned in sub-paragraph (11), any requirement to call that diet at any sitting of the court shall have effect only in relation to a sitting on the date to which the diet has been postponed.

(13) A copy of any order for a preliminary diet under sub-paragraph (6) duly certified by the Clerk of Justiciary or by the sheriff clerk, as the case may be, shall be warrant—

(a) for the conveyance to the preliminary diet of any accused who is in custody;

(b) in a case set down for trial by the High Court on circuit in respect of which a preliminary diet has been ordered in Edinburgh, for the transmission to the Clerk of Justiciary of any production specified in the minute.

Procedure at preliminary diet

4.—(1) A preliminary diet shall commence on the diet being called.

(2) For the purpose of the application of section 274 (Shorthand notes of trial) to a preliminary diet the whole proceedings at the preliminary diet shall be proceedings at the trial for the purposes of that section.

(3) A record of those proceedings including—

(a) a note of the decision made by the court in respect of any notice placed before it;

- (b) any continuation or adjournment;
- (c) the plea or pleas stated at the conclusion of the diet in terms of section 76(6);

shall be kept in accordance with existing law and practice.

(4) At any time after the commencement of the diet the judge may make an order continuing or adjourning the diet to another time or place; but he shall not require to make an order continuing it to the trial diet.

(5) A copy of an order continuing or adjourning the diet under subparagraph (4) duly certified by the Clerk of Justiciary or the sheriff clerk, as the case may be, shall be warrant—

- (a) for the conveyance to the continued or adjourned diet of any accused who may be in custody;
- (b) for the citation to that diet of any witness.

Appeal arising from preliminary diet

5.—(1) An application for leave to appeal to the High Court against a decision at a preliminary diet under section 76A(1) shall be made by way of motion to the judge at that diet immediately following the making of the decision in question, and shall be either granted or refused there and then.

(2) The granting of leave to appeal shall be recorded in the record of proceedings.

(3) An appeal taken under section 76A(1) shall be made by way of note of appeal in the form set out in Form 2 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(4) The note of appeal shall be lodged—

- (a) in a case set down for trial in the High Court, with the Clerk of Justiciary;
- (b) in a case set down for trial in the sheriff court, with the sheriff clerk;

not later than 2 days after the making of the decision in question.

(5) On the lodging of a note of appeal with the sheriff clerk he shall endorse on it a certificate that leave to appeal has been granted, and the date and time of lodging.

(6) On the lodging of a note of appeal against a decision of a sheriff, the sheriff clerk shall as soon as possible—

- (a) send a copy of the note of appeal to the other parties or their solicitors;
- (b) request a report on the circumstances relating to his decision from the sheriff;
- (c) transmit the note of appeal to the Clerk of Justiciary together with a certified copy of—
 - (i) the indictment;
 - (ii) the record of proceedings;
 - (iii) any relevant document.

(7) The sheriff on receiving a request for a report under subparagraph (6) shall as soon as possible, send his report to the Clerk of Justiciary.

- (8) The Clerk of Justiciary shall, on receiving the sheriff's report—
- (a) send a copy of the report to the parties or their solicitors;
 - (b) arrange for a hearing of the appeal as soon as possible;
 - (c) cause to be copied any documents necessary for the Appeal Court.

(9) Where in relation to any appeal under section 76A(1) in a case set down for hearing in the sheriff court, the High Court makes an order or order and direction under section 76A(2) postponing the trial diet, the Clerk of Justiciary shall send a copy of the order or order and direction, as the case may be, to the sheriff clerk and to all parties to the proceedings and to the governor of any institution in which any accused is detained.

(10) Paragraph 3(11) and 3(12) shall apply to an order or an order and direction made under sub-paragraph (9) as they apply to an order mentioned in paragraph 3(11).

(11) The Clerk of Justiciary shall intimate to the sheriff clerk the decision of the High Court disposing of an appeal under section 76A(1).

(12) If the High Court in disposing of an appeal under section 76A(1) reverses a decision that dismisses the case against the accused and makes a direction to the court of first instance that it fix a trial diet, that direction shall be authority to the Clerk of Justiciary or the sheriff clerk as the case may be, to issue a fresh warrant for citation under section 69.

Abandonment of appeal

6.—(1) An appellant who has taken an appeal under section 76A(1) may abandon the appeal at any time before the hearing of the appeal.

(2) An appeal shall be abandoned by way of lodging a minute of abandonment with the Clerk of Justiciary in the form set out in Form 3 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(3) The Clerk of Justiciary, on receiving a minute of abandonment of an appeal in a case set down for trial in the sheriff court, shall inform the sheriff clerk and the other parties or their solicitors.

(4) The sheriff, on the sheriff clerk being so informed, may proceed as accords with the case.

Alteration of trial diet

7.—(1) If circumstances arise in which the court may adjourn the trial diet to a subsequent sitting under section 77, and the prosecutor proposes such an adjournment, he may for that purpose require the trial diet to be called at the sitting for which it was originally fixed at such time as he thinks appropriate.

(2) If, on the trial being so called, the prosecutor—

(a) informs the court that a warrant for an appropriate subsequent sitting of the court has been issued; and

(b) moves the court to adjourn the trial diet to that subsequent sitting, the court shall grant his motion.

(3) The presence of the accused in court when the trial diet was so called and adjourned, shall be sufficient intimation to him of the adjourned diet.

(4) If the trial diet was so called and adjourned in the absence of the accused, the prosecutor shall immediately serve on the accused an intimation of

adjournment in the form set out in Form 4 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(5) The calling and the adjournment of the trial diet including a record as to the presence or absence of the accused, as the case may be, shall be endorsed by the clerk of court on the record copy indictment and entered in the record of proceedings in accordance with existing law and practice.

(6) A copy of an order of the court adjourning the trial diet to a subsequent sitting under section 77 shall be sent by the Clerk of Justiciary or the sheriff clerk, as the case may be, to the governor of any institution in which any accused is detained.

List of jurors

8. The clerk of the court before which the trial is to take place, in the preparing of a list of jurors for the trial diet under section 96, shall have regard in determining the number of jurors to be listed to the powers of postponing or adjourning any trial diet exercisable by the court under sections 76, 77, 77A and 102(3).

Application for postponement of trial diet

9.—(1) Subject to sub-paragraph (2), an application for postponement of the trial diet under section 77A(1) shall be made by way of minute in the form set out in Form 5 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(2) Where all the parties join in the application it shall be made by way of joint minute in the form set out in Form 6 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(3) The minute shall be lodged—

(a) in a case set down for trial in the High Court, with the Clerk of Justiciary;

(b) in a case set down for trial in the sheriff court, with the appropriate sheriff clerk.

(4) The minute shall be placed before the court and the court (if section 77A(3) does not apply) shall make an order endorsed on the minute—

(a) fixing a diet for a hearing of the application;

(b) for intimation of the minute and of the diet to all parties.

(5) The diet shall (if section 77A(3) and the proviso to section 77A(4) do not apply) be held in open court in the presence of all parties, and shall be commenced by the calling of the diet.

(6) On the calling of the diet the prosecutor shall inform the court—

(a) whether any other cases have been set down for trial at the sitting in respect of which the application for postponement of the trial diet is made; and

(b) whether a warrant has been issued under section 69 for a subsequent sitting of the court.

(7) If the court is informed by the prosecutor that no other cases have been set down for trial at the sitting in respect of which the application for postponement of the trial diet is made and has granted the application under section 77A(2), the court shall make an order authorising—

- (a) if citations have been issued to jurors for the original diet, the issue to those jurors of intimations that they are not required to attend at the original diet, but are required to attend at the new diet;
- (b) if such citations have not been issued, the issue to the jurors shown on the original list of jurors of citations requiring them to attend at the new diet.

(8) If the court is informed by the prosecutor that other cases have been set down for trial at that sitting and has granted the application under section 77A(2), the court shall, in fixing a new trial diet, have regard to the time required to issue citations to such jurors on the list of jurors as have not been summoned under section 97 for the sitting in which the new diet is being fixed and are required to be summoned by reason of the granting of the application.

(9) If at the diet—

- (a) the court is of opinion that the original diet should not proceed, and
- (b) the court has been informed that a warrant has been issued under section 69 for a subsequent sitting of the court within the period mentioned in relation to that court in section 77,

the court may, notwithstanding the provisions of section 77A(2), make an order adjourning the trial diet to that subsequent sitting; and that order shall have effect as if it has been made under section 77.

(10) If the court gives leave to the prosecutor to serve a notice fixing a new trial diet under section 77A(2), the prosecutor shall consult with the Clerk of Justiciary or the sheriff clerk, as the case may be, as to an appropriate date before fixing that diet.

(11) Such a notice shall be in the form set out in Form 7 of Schedule 2 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances, and shall be served by the prosecutor on all parties and on the governor of any institution in which any accused is detained, and a copy of the notice together with the relative execution of service shall be lodged by him as soon as possible with the clerk of court.

(12) A notice served in accordance with sub-paragraph (11) shall, for the purposes of section 69, be treated as being a warrant issued by the Clerk of Justiciary or the sheriff clerk, as the case may be, to officers of law to cite accused persons, witnesses and jurors for the date specified in the notice for the new trial diet, and shall have effect for those purposes.

(13) The clerk of court shall, on receiving a copy of the notice, attach it to the record copy indictment.

(14) The clerk of court shall record by endorsement on the record copy indictment—

- (a) the calling of the diet of the hearing under section 77A(2);
- (b) the proceedings at the hearing;
- (c) the decision of the court,

and that record shall be authenticated by the judge subscribing his signature, and entered in the record of proceedings in accordance with existing law and practice.

(15) If in the case of a joint application the court proposes to proceed under section 77A(2) without hearing the parties, the Clerk of Justiciary or the sheriff clerk, as the case may be, shall on the lodging of the minute attach it to the record copy indictment and place it before a judge in chambers.

(16) The order made by the judge in chambers in respect of the joint application shall be—

- (a) recorded by endorsement on the record copy indictment;
- (b) authenticated by the judge subscribing his signature;
- (c) entered in the record of proceedings in accordance with the existing law and practice.

(17) The clerk of court shall send to the governor of any institution in which any accused is detained a copy of the following orders of the court—

- (a) an order under sub-paragraph (4) fixing a diet for hearing of the application;
- (b) an order under section 77A(2) discharging a trial diet and fixing a new trial diet;
- (c) an order under sub-paragraph (9) adjourning a trial diet to a subsequent sitting.

(18) If in relation to any case, a trial diet has been discharged or adjourned under this paragraph, any requirement to call that diet at any sitting of the court shall have effect only in relation to the sitting at which the new trial diet has been fixed.

Procedure where accused desires to plead guilty under solemn procedure

10.—(1) A notice to appear at a diet of the appropriate court served on an accused under section 102(1) shall—

- (a) if an indictment has not already been served, be in the form set out in Form 1 of Schedule 3 to this Act of Adjournal;
- (b) if an indictment has already been served, be in the form set out in Form 2 of Schedule 3 to this Act of Adjournal,

or as nearly as may be in that form having regard to the particular circumstances.

(2) In any case set down for trial in the High Court, any such diet under section 102(1) may be called before the High Court sitting in Edinburgh, whether or not the case has already been set down for trial on circuit and whether or not any notice has already been served on the accused under section 75.

(3) Notwithstanding the provisions of section 102(3), the court may postpone the trial diet under that section if, but only if—

- (a) all the accused have given intimation in accordance with the provisions of section 102(1); and
- (b) are present at the diet called under section 102(1); and
- (c) a motion in that behalf is made to the court at that diet.

(4) If the court grants that motion, the order granting it shall—

- (a) be endorsed on the record copy indictment;
- (b) be authenticated by the presiding judge subscribing his signature;

- (c) be entered in the record of proceedings in accordance with existing law and practice;
 - (d) have effect for the purposes of section 69 as a warrant of citation issued under that section by the Clerk of Justiciary or sheriff clerk, as the case may be, for the date to which the trial diet has, by virtue of that order, been postponed.
- (5) A copy of the order shall be sent by the clerk of court to the governor of any institution in which any accused is detained.
- (6) Any requirement to call the diet in any case where such an order has been made shall have effect only in relation to the postponed trial diet.

Appeals from decisions on competency and relevancy in summary proceedings

11.—(1) If in summary proceedings—

- (a) an accused states an objection to the competency or relevancy of the complaint or the proceedings; and
- (b) that objection is repelled,

he may only apply for leave to appeal against that decision under section 334(2A) after stating how he pleads to the charge or charges set out in the complaint.

(2) Subject to paragraph (1), the accused shall apply for leave to appeal against any decision to which that section applies and the court shall determine that application immediately following the decision in question.

(3) If the court grants the application, the clerk of court shall enter in the minutes of proceedings—

- (a) details of the decision in question, and
- (b) the granting of leave to appeal against it.

(4) An appeal under section 334 shall be made by way of note of appeal in the form set out in Form 1 of Schedule 4 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(5) The note of appeal shall be lodged with the clerk of the court that granted leave to appeal not later than 2 days after the decision in question.

(6) The clerk of court shall, on the lodging of the note of appeal with him—

- (a) send a copy to the respondent or his solicitors;
- (b) request a report from the presiding judge;
- (c) transmit the note of appeal, and certified copies of the complaint, minutes of proceedings and relevant documents to the Clerk of Justiciary.

(7) The presiding judge shall, as soon as possible after receiving the request for a report, send his report to the Clerk of Justiciary, who shall send a copy to the appellant and respondent or their solicitors.

(8) The Clerk of Justiciary shall arrange for the Appeal Court to hear the appeal as soon as possible, and shall cause any documents necessary for the Appeal Court to be copied.

(9) If the High Court makes any order postponing the trial diet under section 334(2B), or makes any such order and gives a direction under that section, the Clerk of Justiciary shall send a copy of that order, or of that order

and direction, to the appropriate clerk of court and to any accused who are not parties to the appeal, or to their solicitors, and to the governor of any institution in which any accused is detained.

(10) Any such appeal may be abandoned at any time prior to the hearing of the appeal.

(11) An appeal shall be abandoned by lodging with the Clerk of Justiciary a minute of abandonment in the form set out in Form 2 of Schedule 4 to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(12) On the lodging of a minute of abandonment under paragraph (11), the Clerk of Justiciary shall inform the appropriate clerk of court and the respondent or his solicitor that the appeal has been abandoned, and the court of first instance may then proceed as accords.

Service on Crown

12. Any document that requires to be sent to the Lord Advocate or the prosecutor under any enactment or rule of law (including this Act of Adjournal) shall be sent—

- (a) if it relates to a case set down for trial in the High Court, to the Crown Agent;
- (b) if it relates to a case set down for trial in the sheriff court, to the appropriate procurator fiscal.

Edinburgh.
4th December 1981.

Emslie,
Lord Justice General,
I.P.D.

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

SCHEDULE 1

paragraph 2 (Section 69)

FORM 1

WARRANT TO CITE

Under the Criminal Procedure (Scotland) Act 1975

WARRANT FOR CITATION OF PERSONS ACCUSED, WITNESSES, AND JURORS

Whereas the High Court of Justiciary/Sheriff of (place)
is to hold a sitting for the trial of persons accused on indictment at
..... (place) on (date)

with continuation of days, warrant is hereby granted to all officers competent to cite all persons accused to the said sitting, and to cite to the said sitting witnesses both for the prosecutor and persons accused, and to cite jurors.

Clerk of Justiciary/
Sheriff Clerk

[Place and date]

paragraph 2 (Section 69)

FORM 2

EXECUTION OF SERVICE

Under the Criminal Procedure (Scotland) Act 1975.

EXECUTION OF SERVICE OF INDICTMENT AND OF CITATION OF ACCUSED

I, (name and designation) on (date)
duly served on (name and designation of accused)
the indictment against him, with a notice of compearance thereto attached for the said diet in the High/Sheriff Court at (place)
on (date)

This I did by [here state method of service]

(Signature of Officer of Law effecting service)

(Signature of witness to service)

.....witness.

FORM 3

paragraph 2 (Section 75)

NOTICE TO ACCUSED TO APPEAR

Under the Criminal Procedure (Scotland) Act 1975

NOTICE TO ACCUSED IN TERMS OF SECTION 75

TO: (name and designation of accused)

TAKE NOTICE THAT YOU MUST APPEAR at (place)

High/Sheriff Court, (address)

on (date) at (time)

for a diet of trial at which you will be required to answer to the Indictment which is attached to this Notice.

Served on the day of 19

by me (name and designation) by [here state method

of service]

(Signature of Officer of Law effecting service)

(Signature of witness to service)

..... witness.

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

SCHEDULE 2

paragraph 3(1) (Section 76(1))

FORM 1

MINUTE OF NOTICE

Under the Criminal Procedure (Scotland) Act, 1975 Section 76

Unto the Right Honourable the Lord Justice General, the Lord Justice Clerk and Lords Commissioners of Justiciary

(or)

Unto the Honourable the Sheriff of

at

MINUTE OF NOTICE

by

A.B.

designation, address or Prisoner

in the Prison of

HUMBLY SHEWETH

- (1) That the Minuter has (along with C.D., E.F., and G.H.) been indicted at the instance of Her Majesty's Advocate for trial in the High Court of Justiciary sitting at ... on/in the Sheriff Court at on
- (2) That the said A.B. [here specify the matter, grounds of submission or point which in the opinion of the Minuter requires to be dealt with at a preliminary diet].
- (3) That a copy of this Minute has been duly intimated to the Lord Advocate (and to the said C.D., E.F. and G.H.) conform to execution(s) attached hereto.

MAY IT THEREFORE PLEASE YOUR LORDSHIP(S)

- (a) to order that there be a preliminary diet and to assign a date therefor;
- (b) to order that the following productions be made available at such preliminary diet]

High Court
case on
circuit
only

IN RESPECT WHEREOF

Solicitor for the Minuter
[add address and telephone number]

FORM 2 paragraph 5(3) (Section 76A(1))

NOTE OF APPEAL

Under the Criminal Procedure (Scotland) Act, 1975 Section 76A

Unto the Right Honourable the Lord Justice General, the Lord Justice Clerk and Lords Commissioners of Justiciary

NOTE OF APPEAL

by

A.B.

designation, address or Prisoner

in the Prison of

HUMBLY SHEWETH

- (1) That in the High Court of Justiciary/Sheriff Court sitting at
on a Preliminary Diet was held in the case of Her Majesty's Advocate against the said A.B. (and C.D., E.F., and G.H.);
- (2) That the diet appointed for the trial on the said Indictment is/was; [Here specify any postponement of the trial diet ordered in terms of Section 76(4)]/;
- (3) That the matter, the grounds of submission, or the point(s) raised at the said Preliminary Diet was/were [here specify];
- (4) That the decision of the Court thereon was [here specify];
- (5) That the Court granted leave to appeal to the High Court against the said decision;
- (6) That the said A.B. appeals to the High Court against the said decision on the following grounds [here specify].

(signed) A.B.

[or C.D.]

Solicitor for the said A.B.
(add address and telephone number)]

Date

6010

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

paragraph 6(2)

FORM 3

MINUTE OF ABANDONMENT

NOTICE OF ABANDONMENT OF APPEAL

Under the Criminal Procedure (Scotland) Act, 1975 Section 76A

Name of Appellant

Date of Birth

Prisoner in the Prison of [or as the case may be]

Crime or offence to which appeal relates.

Court

The above named Appellant having lodged a Note of Appeal in terms of Section 76A of said Act abandons as from this date said appeal against the decision at the preliminary diet.

(signed) A.B.
[or C.D. Solicitor for the said A.B.]

[Place and date]

paragraph 7(4) (Section 77)

FORM 4

INTIMATION BY PROSECUTOR OF ADJOURNMENT OF TRIAL DIET

in terms of

The Criminal Procedure (Scotland) Act 1975, Section 77

HER MAJESTY'S ADVOCATE AGAINST [here name all accused]

To: (Name and Designation)

(1) When the above indictment was not brought to trial at the trial diet fixed for the sitting commencing on(date).....the Court in your absence adjourned the trial diet to the sitting commencing on(date).....

(2) TAKE NOTICE THEREFORE that YOU ARE REQUIRED TO APPEAR at(place).....High/Sheriff Court on(date)..... at(time).....to answer to the indictment which has already been served upon you.

BY AUTHORITY OF HER MAJESTY'S ADVOCATE

Advocate Depute/Procurator Fiscal

[Place and Date]

FORM 5 paragraph 9(1) (Section 77A(1))

MINUTE FOR POSTONEMENT OF DIET

Under the Criminal Procedure (Scotland) Act 1975, Section 77A

Unto the Right Honourable the Lord Justice General, the Lord Justice Clerk and Lords Commissioners of Justiciary.

(or)

Unto the Honourable the Sheriff ofat

MINUTE

by

A.B.

designation, address or Prisoner

in the Prison of

HUMBLY SHEWETH

(1) That the Minuter has (along with C.D., E.F., and G.H.) been indicted at the instance of Her Majesty's Advocate for trial in the High Court of Justiciary sitting at (place)

on (date)/in the Sheriff Court at (place)

on (date)

(2) That the said A.B. applies to the Court for postponement of the said trial diet for the following reasons:

[here specify].

MAY IT THEREFORE PLEASE YOUR LORDSHIP(S)

- (a) to fix a diet for hearing this application and to order intimation of this application and the diet to all the parties;
- (b) thereafter, after hearing all the parties, to discharge said trial diet and either to fix a new trial diet or to give leave to the prosecutor to serve a Notice fixing a new trial diet;
- (c) or to do otherwise as to your Lordship(s) shall seem proper.

IN RESPECT WHEREOF

Solicitor for the Minuter
[add address and telephone number]

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

paragraph 9(2)

FORM 6

JOINT MINUTE

Under the Criminal Procedure (Scotland) Act 1975 Section 77A

Unto the Right Honourable the Lord Justice General, the Lord Justice Clerk and Lords Commissioners of Justiciary.

(or)

Unto the Honourable the Sheriff of at

JOINT MINUTE

by

- (1) Her Majesty's Advocate and
- (2) A.B. designation, address or Prisoner in the Prison of (C.D., E.F. and G.H.)
[here specify all accused]

HUMBLY SHEWETH

(1) That the said A.B. (C.D., E.F. and G.H.) has/have been indicted at the instance of Her Majesty's Advocate for trial in the High Court of Justiciary sitting at (place) on (date)/in the Sheriff Court at (place) on (date)

(2) That the Minuters apply to the Court for postponement of the said trial diet for the following reasons:

[here specify]

MAY IT THEREFORE PLEASE YOUR LORDSHIP(S)

- (a) to dispense with a hearing of this application;
- (b) to discharge said trial diet and either to fix a new trial diet or to give leave to the prosecutor to serve a Notice fixing a new trial diet;
- (c) or to do otherwise as to your Lordship(s) shall seem proper

IN RESPECT WHEREOF
Advocate Depute/Procurator Fiscal
On behalf of Her Majesty's Advocate

Solicitor for the said A.B.
(C.D., E.F. and G.H.)
[add address and telephone number]

FORM 7 paragraph 9(11) (Section 77A(2))

NOTICE BY PROSECUTOR FIXING A NEW TRIAL DIET
in terms of
The Criminal Procedure (Scotland) Act 1975, Section 77A(2)

HER MAJESTY'S ADVOCATE against [here name all accused]

To: (Name and Designation)

- 1 On (date) the Court discharged the trial diet fixed for the sitting commencing on and granted leave to the prosecutor to serve on you a notice fixing a new trial diet.
- 2 TAKE NOTICE that said new trial diet will take place within (place) High/Sheriff Court (address) on (date) at (time) when YOU ARE REQUIRED TO APPEAR to answer to the indictment which has already been served upon you.

BY AUTHORITY OF HER MAJESTY'S ADVOCATE

Advocate Depute/
Procurator Fiscal

[Place and date]

HIGH COURT OF JUDICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

SCHEDULE 3

paragraph 10 (Section 102)

FORM 1

NOTICE OF SPECIAL DIET WHERE ACCUSED INTENDS TO PLEAD
GUILTY (WHERE INDICTMENT NOT ALREADY SERVED.)

To: (Name and Designation of accused)

TAKE NOTICE THAT:

- (1) the Crown Agent has received intimation that you intend to plead guilty to the charge(s) on which you have been committed for trial;
- (2) YOU MUST THEREFORE APPEAR before the High Court of Justiciary, 4 Parliament Square, Edinburgh/or Sheriff Court, (address) on (date) (time) at to answer to the Indictment to which this Notice is attached.

Served on the day of 19

by me by [Here state method of service]

(Signature of Officer of Law serving
Notice)

(Signature Witness
of witness
to service
of Notice)

FORM 2 paragraph 10 (Section 102)

NOTICE OF SPECIAL DIET WHERE ACCUSED INTENDS TO PLEAD GUILTY. (WHERE INDICTMENT ALREADY SERVED)

To: (Name and Designation of accused)

TAKE NOTICE THAT:

- (1) the Crown Agent has received intimation that you intend to plead guilty to the charge(s) contained in the Indictment the trial of which is to take place at(place).....High/Sheriff Court on(date).....
- (2) YOU MUST THEREFORE APPEAR before the High Court of Justiciary, 4 Parliament Square, Edinburgh/orSheriff Court (address)on(date)..... at(time).....to answer to the said Indictment which has already been served upon you.

Served on theday of19..... by me by [here state method of service]

(Signature of Officer of Law serving Notice)

(Signature of witness to service of Notice)Witness

6016

HIGH COURT OF JUSTICIARY, SCOTLAND
SUMMARY JURISDICTION, SCOTLAND

SCHEDULE 4

paragraph 11(4) (Section 334)

FORM 1

NOTE OF APPEAL

To: Sheriff Clerk/Clerk to the District Court

at

NOTE OF APPEAL
under
Criminal Procedure (Scotland) Act 1975
by
A.B.

residing at
(or presently prisoner in the Prison
of)
APPELLANT
against

Procurator Fiscal,
RESPONDENT

Date of Decision appealed against:

Date of Trial:

The said Appellant appeals to the High Court of Justiciary in respect that

1. [State whether objection taken to competency or relevancy of the Complaint or the Proceedings and specify the terms of said objection].
2. [State the decision which it is desired to bring under review by the High Court].
3. [State the grounds of appeal]

(signed) A.B.

(or C.D., Solicitor for the said A.B.
address and telephone number)

[Place and date]

FORM 2

paragraph 11(11)

MINUTE OF ABANDONMENT OF APPEAL

To: Clerk of Justiciary

Minute of Abandonment
of
Appeal under Criminal Procedure
(Scotland) Act 1975, Section
334(2A)

Name of Appellant

Name of Respondent

Date of Decision appealed against

Date of Appeal Hearing

The above named Appellant abandons the said Appeal.

(signed)* A.B./Procurator Fiscal

(or C.D. Solicitor for the said A.B.
[address and telephone number])

[Place and Date]

*delete as appropriate

EXPLANATORY NOTE

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

This Act of Adjournal makes provision for the procedure to be followed under the following sections of the Criminal Procedure (Scotland) Act 1975—

- (1) sections 69 and 75 (new forms of warrants for citation of accused, witnesses and jurors);
- (2) section 76 as substituted by paragraph 5 of Schedule 4 to the Criminal Justice (Scotland) Act 1980 (orders for preliminary diet and proceedings at the diet);
- (3) section 76A as added by the said paragraph 5 (appeal against a decision at a preliminary diet);
- (4) section 77 as substituted by paragraph 6 of the said Schedule 4 (alteration of trial diet);
- (5) section 77A as added by paragraph 7 of the said Schedule 4 (application for postponement of trial diet);
- (6) section 102 as substituted by section 16 of the 1980 Act (procedure where accused desires to plead guilty);
- (7) section 334 as amended by paragraph 54 of Schedule 7 to and section 36 of the 1980 Act (appeals from decisions on competency and relevancy in summary proceedings).

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