
STATUTORY INSTRUMENTS

1988 No. 110

Act of Adjournal (Consolidation) 1988

CHAPTER 2

SUMMARY PROCEDURE

PART I

PROCEDURE PRIOR TO TRIAL

Letters of Request

Application

101.—(1) An application to the court by the prosecutor or the defence under section 32(1)(a) of the 1980 Act for the issue of a letter of request shall be made by way of petition in the form set out in Form 55 of Schedule 1.

(2) An application so made shall be lodged with the sheriff clerk and shall be accompanied by a proposed letter of request including the matters set out in Form 27 of Schedule 1.

Powers of sheriff

102.—(1) The sheriff shall on the application being placed before him—

- (a) order intimation on the other party or parties to the proceedings;
- (b) subject to paragraph (2), allow such time for lodging answers as appears appropriate;
- (c) fix a diet for hearing the application and answers (if any).

(2) The sheriff may dispense with answers to an application under this rule on cause shown.

(3) The sheriff may, after considering the application and answers (if any), either grant the application with or without modifications, or refuse it.

(4) On granting an application under this rule, the sheriff shall—

- (a) allow interrogatories to be adjusted summarily;
- (b) pronounce a deliverance approving the terms—
 - (i) of the letter of request to be sent;
 - (ii) of the interrogatories and cross-interrogatories (if any) to be sent;
- (c) If English is not an official language of the body to whom the letter of request is addressed, specify a period within which a translation of the letter and of the interrogatories and cross-interrogatories and of any productions is to be lodged.

Expenses

103.—(1) The solicitor for the applicant, or if he is unrepresented the applicant, shall be liable for the expenses of the application.

(2) The sheriff may order the solicitor for the applicant, or the applicant, to consign in court such sum in respect of those expenses as he may specify on or before such date as he may specify.

(3) In the event of the sum so specified not being consigned in court on or before the date so specified, the application shall be treated as having been abandoned.

Transmission

104.—(1) On the sheriff pronouncing a deliverance under rule 102(4), or in a case where a translation requires to be lodged, on the lodging of the translation, the sheriff clerk shall send the letter of request and relative documents to the Secretary of State for Foreign and Commonwealth Affairs for onward transmission to the body to whom the letter of request is addressed.

(2) On sending the letter of request and relative documents to the Secretary of State, the sheriff clerk shall note the documents sent, to whom they were sent, and the date on which they were sent, on the application or in the minutes of proceedings.

(3) On the relative documents being returned to him the sheriff clerk shall—

- (a) note the documents returned, by whom they were returned and the date on which they were returned, on the application or in the minutes of proceedings; and
- (b) intimate those facts to all parties concerned.

Custody of documents

105.—(1) The sheriff clerk shall keep the documents mentioned in rule 104(3) in his custody.

(2) In any case where the record of the evidence of a witness is in the custody of a sheriff clerk under this rule and where intimation has been given to that effect to all the parties concerned in the proceedings under rule 104(3), the name and address of that witness and the record of his evidence shall be treated as being within the knowledge of those parties.

Prohibition of reference to evidence without leave

106.—(1) No reference shall be made either directly or indirectly in any proceedings to the evidence, or any part of the evidence, of a witness whose evidence has been taken under rule 102 unless the party seeking to make such reference has made a motion to the court to that effect and that motion has been granted.

(2) The terms of any motion made under paragraph (1) and the grant or refusal of that motion by the court shall be noted by the clerk of court in the minutes of proceedings.