
STATUTORY INSTRUMENTS

1991 No. 1916 (S.161)

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

Act of Adjournal (Consolidation Amendment
No. 2) (Evidence of Children) 1991

Made - - - - - *22nd August 1991*

Coming into force - - - - - *30th September 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.2) (Evidence of Children) 1991 and shall come into force on 30th September 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 61 (application of other provisions to application for appointment of a commissioner), insert the following rule:–

“Evidence of Children

61A. –

(1) 1975 c. 21; section 282 was amended by paragraph 47 and section 457 by paragraph 72, of Schedule 7 to the Criminal Justice (Scotland) Act 1980 (c. 62).

(2) S.I.1988/110, to which there are amendments not relevant to this Act of Adjournal.

(1) An application to the court under section 56(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990((3)) for authorisation of the giving of evidence by a child by means of a live television link shall be made by petition in Form 28D(1) or Form 28D(2) of Schedule 1.

(2) An application referred to in paragraph (1) shall—

(a) where it relates to proceedings in the High Court, be lodged with the Clerk of Justiciary; and

(b) where it relates to proceedings in the sheriff court, be lodged with the sheriff clerk, not later than 14 clear days before the trial diet (except on special cause shown).

(3) The court shall, on the application being placed before it—

(a) order intimation of the application to be made to the other party or parties to the proceedings; and

(b) fix a diet for hearing the application on the earliest practicable date.

(4) After hearing the parties and allowing such further procedure as the court thinks fit—

(a) the court may make an order granting or refusing the application; or

(b) where section 57 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 applies, the sheriff may make an order under that section transferring the case to another sheriff court in the same sheriffdom.

(5) Where the sheriff makes an order under paragraph 4(b) transferring the cause to another sheriff court (the “receiving court”) the sheriff clerk shall forthwith transmit the record copy indictment, the minute of proceedings, any productions and any relevant documents to the clerk of the receiving court.”.

(3) After rule 111 (application of other provisions to application for appointment of a commissioner), insert the following rule:—

“Evidence of Children

111A. –

(1) An application to the court under section 56(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990((4)) for authorisation of the giving of evidence by a child by means of a live television link shall be made by petition in Form 56A of Schedule 1.

(2) An application referred to in paragraph (1) shall be lodged with the sheriff clerk not later than 14 clear days before the trial diet (except on special cause shown).

(3) The sheriff shall on the application being placed before him—

(a) order intimation of the application to be made to the other party or parties to the proceedings; and

(b) fix a diet for hearing the application on the earliest practicable date.

(4) The sheriff may, after hearing the parties to the proceedings and allowing such further procedure as he thinks fit—

(a) make an order granting or refusing the application; or

(b) where section 57 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 applies, make an order under that section transferring the case to another sheriff court in the same sheriffdom.

(3) 1990 c. 40.

(4) 1990 c. 40.

(5) Where the sheriff makes an order under paragraph (4)(b) transferring the cause to another sheriff court (the “receiving court”) the sheriff clerk shall forthwith transmit the complaint, the minute of proceedings, any productions and any relevant documents to the clerk of the receiving court.”.

(4) In Schedule 1–

- (a) after Form 28C, insert the forms in Schedule 1 to this Act of Adjournal; and
- (b) after Form 56, insert the form in Schedule 2 to this Act of Adjournal.

Edinburgh,
22nd August 1991

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

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

SCHEDULE 1

paragraph 2(4)(a)

SCHEDULE 1

paragraph 2(4)(a)

FORM 28D(1)

Rule 61A

PETITION FOR AUTHORISATION OF THE GIVING OF EVIDENCE BY A CHILD BY MEANS OF A LIVE TELEVISION LINK IN THE HIGH COURT

Under section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

HIGH COURT OF JUSTICIARY, SCOTLAND

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, THE LORD JUSTICE CLERK AND LORDS COMMISIONERS OF JUSTICIARY

PETITION

of

[A.B.] [(designation, address or Prisoner in the Prison of)]

[X.Y.], [Her Majesty's Advocate]

HUMBLY SHEWETH:

1. That [the said] [A.B.] [*designation, address or Prisoner in the Prison of*] has [along with [C.D.], [E.F.] [and] [G.H.]] been indicted in your Lordships' court at the instance of [X.Y.], Her Majesty's Advocate with the crime of
2. That the trial of the said [A.B.] is to take place in your Lordships' court sitting at on
3. That [M.N.], a child born on (*date of birth*) and residing at, has been cited to give evidence at the said trial;
4. That (*here state reasons for application*);
5. That accordingly it is appropriate in terms of section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 that the evidence of the said [M.N.] shall be given by means of live television link.

MAY IT THEREFORE please your Lordships:

1. to appoint intimation of this petition to be made to the said [A.B.] [and] [C.D., E.F. and G.H.] [and] [Her Majesty's Advocate];
2. to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
3. thereafter, upon being satisfied in terms of section 56 of the said Act, to order that the evidence of [M.N.] shall be given by means of a live television link.

IN RESPECT WHEREOF

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Rule 61A

FORM 28D(2)

PETITION FOR AUTHORISATION OF THE GIVING OF EVIDENCE BY A CHILD BY
MEANS OF A LIVE TELEVISION LINK IN SOLEMN PROCEEDINGS IN SHERIFF
COURT

Under section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

UNTO THE HONOURABLE THE SHERIFF OF AT

PETITION

of

[A.B.] [(designation,
address or Prisoner in the
Prison of)]

[X.Y.], [Her Majesty's
Advocate]

HUMBLY SHEWETH:

1. That [the said] [A.B.] [*designation, address or Prisoner in the Prison of*] has [along with [C.D.], [E.F.] [and] [G.H.]] been indicted in your Lordship's court at the instance of [X.Y.], Her Majesty's Advocate with the crime of

2. That the trial of the said [A.B.] is to take place in your Lordship's court sitting at on

3. That [M.N.], a child born on (*date of birth*) and residing at, has been cited to give evidence at the said trial;

4. That (*here state reasons for application*);

5. That accordingly it is appropriate in terms of section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 that the evidence of the said [M.N.] shall be given by means of live television link.

[6. That your Lordship's court at lacks the accommodation or equipment necessary to enable the said [M.N.] to give evidence by such means;

7. That the sheriff court at has such accommodation and equipment available.]

MAY IT THEREFORE please your Lordship:

1. to appoint intimation of this petition to be made to the said [A.B.] [and] [C.D., E.F. and G.H.] [and] [Her Majesty's Advocate];

2. to appoint parties to be heard thereupon on the earliest practicable date hereafter; and

[3. thereafter, upon being satisfied in terms of section 56 of the said Act, to order that the evidence of [M.N.] shall be given by means of a live television link.]

[3. thereafter, upon being satisfied in terms of sections 56 and 57 of the said Act, to order that the case shall be transferred to the court at]

IN RESPECT WHEREOF

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

SCHEDULE 2

paragraph 2(4)(b)

SCHEDULE 2

paragraph 2(4)(b)

FORM 56A

Rule 111A

PETITION FOR AUTHORISATION OF THE GIVING OF EVIDENCE BY A CHILD BY MEANS OF A LIVE TELEVISION LINK IN SUMMARY PROCEEDINGS IN SHERIFF COURT

Under section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

UNTO THE HONOURABLE THE SHERIFF OF AT

PETITION

of

[A.B.] [(designation, address or Prisoner in the Prison of)]
[X.Y.], [Procurator Fiscal]

HUMBLY SHEWETH:

1. That [the said] [A.B.] [*designation, address or Prisoner in the Prison of*] has been charged [along with [C.D.], [E.F.] [and] [G.H.]] in your Lordship's court on a summary complaint at the instance of [X.Y.], [Procurator Fiscal at] [the petitioner] with the offence of
2. That the trial of the said [A.B.] is to take place in your Lordship's court sitting at on
3. That [M.N.], a child born on (*date of birth*) and residing at, has been cited to give evidence at the said trial;
4. That (*here state reasons for application*);
5. That accordingly it is appropriate in terms of section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 that the evidence of the said [M.N.] shall be given by means of live television link.
- [6. That your Lordship's court at lacks the accommodation or equipment necessary to enable the said [M.N.] to give evidence by such means;
7. That the sheriff court at has such accommodation and equipment available.]

MAY IT THEREFORE please your Lordship:

1. to appoint intimation of this petition to be made to the said [A.B.] [and] [C.D., E.F. and G.H.] [and] [Procurator Fiscal];
2. to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
- [3. thereafter, upon being satisfied in terms of section 56 of the said Act, to order that the evidence of [M.N.] shall be given by means of a live television link.]
- [3. thereafter, upon being satisfied in terms of sections 56 and 57 of the said Act, to order that the case shall be transferred to the court at]

EXPLANATORY NOTE

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

Section 56 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 provides for applications to the court for the evidence of a child to be taken by means of a live television link in both solemn and summary proceedings. Section 57 of that Act provides for the transfer of a case from one sheriff court to another in the same sheriffdom to enable the evidence of a child to be given by such means where suitable equipment or accommodation is not available at the former court. This Act of Adjournal sets out the form of such applications and prescribes the procedure to be followed.