

1990 No. 2106 (S.184)

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

**Act of Adjournal (Consolidation Amendment No.2)
(Miscellaneous) 1990**

Made - - - - - *12th October 1990*

Coming into force *5th November 1990*

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

Citation and commencement

1. This Act of Adjournal may be cited as the Act of Adjournal (Consolidation Amendment No.2) (Miscellaneous) 1990 and shall come into force on 5th November 1990.

Amendment of Act of Adjournal (Consolidation) 1988

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

(2) After rules 57(2) and 107(2) (evidence on commission), insert the following sub-paragraph:—

“(3) An application under this rule in relation to section 32(1)(b)(i) of the 1980 Act (examination of witness ill or infirm) shall be accompanied by an appropriate medical certificate duly certified on soul and conscience by a qualified medical practitioner.”.

(3) In rule 131 (intimation to Crown of abandonment)—

(a) in the heading, omit the words “to Crown”; and

(b) after the word “minute” where it last occurs, insert the words “; and, the Clerk of Justiciary shall, where the minute is lodged with him, notify immediately the clerk of court.”.

(4) In rule 134(2) (intimation of determination of appeal), after the word “refused”, insert the words “or abandoned”.

(5) In Schedule 1, in Forms 28A, 28B, 28C and 56—

(a) for paragraph (3) where it first occurs, substitute the following paragraph:—

“3. That M.N. residing at
is a witness whose evidence the said A.B. intends to adduce in the course of
the said trial, is unable to attend the trial diet by reason of being ill or infirm
as appears from the medical certificate produced herewith [*or alternatively* is

(a) 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).

(b) S.I. 1988/110.

- not ordinarily resident in, and is, at the time of the trial diet unlikely to be present in, the United Kingdom, Channel Islands or Isle of Man]”;
- (b) in paragraph (3) where it second occurs, after the word “witness” insert the words “within the United Kingdom, Channel Islands or Isle of Man”.

Edinburgh
12th October 1990

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

EXPLANATORY NOTE

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

This Act of Adjournal amends the Act of Adjournal (Consolidation) 1988 in relation to proceedings in the High Court of Justiciary and Sheriff Court—

- (a) by introducing a requirement for the production of an appropriate medical certificate in support of applications for evidence on commission where the witness is ill or infirm (paragraph 2(2) and (5));
- (b) by providing for intimation of abandonment of an appeal by the High Court of Justiciary to the clerk of the court from which the appeal came and for the clerk of court to take the consequent administrative action (paragraph 2(3) and (4)).

55p

ISBN 0 11 005106 8

Printed in the United Kingdom by HMSO at Edinburgh Press

800 WO 1843 C10 10/90 452/4 19593 PS 8350958 (282677)