1978 No. 834 (S. 72)

SUMMARY JURISDICTION, SCOTLAND

Act of Adjournal (Forms of Complaint) 1978

Made - - - -	*7th June* 1978
Coming into Operation	*3rd July* 1978

The Lord Justice General, Lord Justice Clerk and Lords Commissioners of Justiciary, by virtue of the powers conferred upon them by section 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 (Forms of Complaint) 1978 and shall come into operation on 3rd July 1978.

(2) The Interpretation Act 1889(**b**) applies to this Act of Adjournal as it applies to an Act of Parliament.

(3) Expressions used in this Act of Adjournal shall, unless the context otherwise requires, have the meaning assigned to them by section 462(1) of the said Act of 1975.

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

Application

2. This Act of Adjournal applies to all proceedings under Part II of the said Act of 1975 commenced on or after 3rd July 1978.

New Forms

3.—(1) Schedule 1 to this Act of Adjournal has effect for the purpose of prescribing the form of complaint referred to in section 311(1) of the said Act of 1975.

(2) Schedule 2 to this Act of Adjournal has effect for the purpose of prescribing the form of notice referred to in section 311(5) of the said Act of 1975.

(3) Schedule 3 to this Act of Adjournal has effect for the purpose of prescribing the form of citation of the accused referred to in section 315(2) of the said Act of 1975.

(**a**) 1975 c. 21. (**b**) 1889 c. 63.

(4) Schedule 4 to this Act of Adjournal has effect for the purpose of prescribing the form of notice of previous convictions referred to in section 357(1)(a) of the said Act of 1975.

Cancellation of previous forms

4. The following forms of summary criminal procedure are cancelled—

(*a*) the form of complaint set out in Part II of the Second Schedule to the Summary Jurisdiction (Scotland) Act 1954(**a**);

(*b*) Forms Nos. 1, 2 and 3 set out in Part III of said Second Schedule;

(*c*) the form of citation relating to citation of the accused and the form of note that may be appended to the service copy of a complaint set out in Part IV of the said Second Schedule.

Ancillary forms

5. The procurator fiscal shall send to the accused person together with the citation—

(*a*) a form for completion and return by him stating whether he pleads guilty or not guilty, as nearly as may be, in the form set out in Schedule 5 to this Act of Adjournal;

(*b*) a means form for completion and return by him, as nearly as may be in the form set out in Schedule 6 to this Act of Adjournal;

(*c*) a form containing directions to the accused as to how the complaint may be answered, as nearly as may be in the form set out in Schedule 7 to this Act of Adjournal; and

(*d*) a form for completion and return by him stating whether he intends to appear personally or be represented, as nearly as may be, in the form set out in Schedule 8 to this Act of Adjournal.

Signature of procurator fiscal

6. The procurator fiscal shall require to sign the principal complaint and the citation to the accused person only, and any documents sent with the citation, including the copy complaint and the documents mentioned in paragraph 5, shall, for the purposes of such signature, be treated as part of the citation.

Validity

7. The validity of any proceedings against an accused person shall not be affected by reason only of the failure of the procurator fiscal to comply in any respect with the provisions of paragraph 5.

G. C. Emslie,
I.P.D.

Edinburgh.
7th June 1978.

(**a**) 1954 c. 48.

SCHEDULES

SCHEDULE 1

FORM OF COMPLAINT

Under the Criminal Procedure (Scotland) Act, 1975

IN THE { SHERIFF COURT OF / DISTRICT

THE COMPLAINT OF THE PROCURATOR FISCAL AGAINST

A.B. (Name and address sufficient to distinguish person) (or at present in custody) Date of Birth:

The charge against you is that on 20th , 19 , in (or at) you did (set forth charge as in Forms set out in Part 2 of the Second Schedule to the Summary Jurisdiction (Scotland) Act 1954)

(signed) thus

C.D.
Procurator-Fiscal.
or
E.F. *Complainer.*
or
G.H.
Solicitor for Complainer.

SCHEDULE 2

FORM OF NOTICE AS TO PENALTY FOR STATUTORY OFFENCE

A.B. Date of Birth:

whose case is to be called in Court on

in the { Sheriff Court House / District

NOTICE OF PENALTY applicable to the contravention of (give reference to the section of Act or Order) charged in the Complaint to which this Notice is attached.

(set forth shortly the penalties)

SCHEDULE 3

FORM OF CITATION OF ACCUSED

CITATION

A.B. (Name and address sufficient to distinguish person) Date of Birth:

you are summoned to answer the Complaint against you on

in the { Sheriff Court House / District }

FAILURE TO ANSWER MAY RESULT IN A WARRANT BEING GRANTED FOR YOUR ARREST

Attached are the following documents:

A a copy of the Complaint

B directions as to how the Complaint may be answered

C form to be returned by you

D letter which may be completed and returned by you

E statement of personal circumstances which may be completed and returned by you

F Notice(s) of Penalties

G Notice of Previous Conviction(s) applicable to you

H stamped addressed envelope

(signed)

C.D.

Procurator Fiscal

or Served by me on 9th January 19

E.F. Police Constable

SCHEDULE 4

FORM OF NOTICE OF PREVIOUS CONVICTIONS

NOTICE OF PREVIOUS CONVICTIONS APPLYING TO A.B.

In the event of your being convicted of the charge(s) in the Complaint it is intended to place before the Court the following previous conviction(s) applying to you.

Date	Place of Trial	Court	Offence	Sentence

SCHEDULE 5

FORM OF LETTER STATING PLEA

A.B. Date of Birth:

whose case is to be called in Court on

Sheriff Court House / District } in the

Cross out whatever does not apply:—

PART 1 I plead NOT GUILTY. Please send me a note of the date of trial. My solicitor is

Name .....

Address .....

.....

PART 2

delete as appropriate

I plead GUILTY

I admit the previous convictions listed against me

I admit the prevous convictions except

(list those previous convictions not admitted)

I do not admit the previous convictions listed against me.

I am a male person/I am a female person (*delete as appropriate*).

My date of birth is shown overleaf.

I WILL NOT be represented in Court and I wish to place the following explanation before the Court:

I would like the Court to take into account in imposing the appropriate sentence the personal circumstances which I have set out in the attached form E.

Signature.....

Date.....

SCHEDULE 6

MEANS FORM

INFORMATION REGARDING MEANS

If you plead guilty, or are found guilty and the court decides to deal with your case by fining you, it will take into account your means, that is your financial position, *so far as it knows them*, in deciding the amount of the fine and the method of payment. This form provides you with an opportunity to tell the court of your means so that it can take them into account. If you decide to plead guilty by letter you should enclose the form with the letter to the court (form (D)) in which you plead guilty. If you decide to appear in person in court, you may hand the form over when you appear.

NAME: .....

ADDRESS: .....

.....

OCCUPATION

a).....

b) Are you in business on your own account? YES/NO (*delete as appropriate*)

HOUSEHOLD

Are you MARRIED/SINGLE (*delete as appropriate*)

If MARRIED but apart tick here .....

NUMBER of children you support and their ages.....

Do you support anyone else? YES/NO (*delete as appropriate*)

If YES give details of how much you pay .....

.....

.....

WEEKLY INCOME	£	p
Basic take home pay		
Average overtime pay		
Basic take home pay of WIFE/HUSBAND.....		
Average take home pay of WIFE/HUSBAND...		
Family Allowances		
Pensions		
Social Security		
Average earnings if self employed		

(over)

SAVINGS AND CAPITAL £ p

What savings or capital do you have?.....

What savings or capital do you have?.....

WIFE/HUSBAND? .....

EXPENSES £ p

Weekly cost of accommodation .....
(rent, mortgage, etc)

Any other major weekly expenses .....

Please give details.....

.....

.....

.....

ANY ADDITIONAL INFORMATION

.....

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.....

.....

I declare the foregoing statement to be true.

SIGNED..... Date.....

NB. You are not obliged by law to return this form. If you do return it, the information contained in it will be used for no other purpose than for the Court to decide the amount of any fine and the method of payment. The form will eventually be destroyed.

SCHEDULE 7

FORM OF DIRECTIONS TO ACCUSED AS TO HOW THE COMPLAINT MAY BE ANSWERED

DIRECTIONS TO ACCUSED AS TO HOW THE COMPLAINT MAY BE ANSWERED

1. There are three ways in which the complaint may be answered, namely—

by appearing personally

or

by being represented by a solicitor or some other person authorised by you

or

by sending a letter to the court (to the address on the envelope enclosed).

2. If you intend to appear personally or to be represented in court by a solicitor, you are requested to complete the form C which is attached.

3. If you are to send a letter to the court you must ensure that it reaches the court before the date mentioned in the citation.

If you plead not guilty, you may care to complete Part I of the letter D attached. A reply will be sent to you informing you of the date fixed for your trial, at which you will require to appear personally.

If you plead guilty, but are not being represented or appearing personally in court, you should complete Part 2 of the letter D attached giving all the information which you wish the court to have. If the form is not big enough for your purpose you should send additional sheets. If you wish any other document to be considered by the court, you may send it also and it will be returned to you immediately after the hearing of your case. You will also find attached a form E which you may complete showing your personal circumstances. If you return this in the enclosed envelope, it will be treated as confidential until it is placed before the court.

A stamped addressed envelope is enclosed for your reply.

Previous Convictions

4. If you do not admit all or any of your previous convictions you should indicate this in Part 2 of the letter D attached, and you are advised to appear or be represented in court.

Legal Aid

5. The Court may, in certain circumstances, grant legal aid to accused persons, and if you wish to know more about this, you should immediately apply to the Clerk of Court, whose address is:



SCHEDULE 8

FORM OF LETTER GIVING DETAILS OF REPRESENTATION

A.B. Date of Birth:

whose case is to be called in Court on

in the {Sheriff Court House / District}

Cross out whatever does not apply

1. I shall appear personally

   or

2. I have instructed my solicitor whose particulars are

   Name .....

   Address .....

   .....

to represent me in Court.

Signature .....

Date .....

EXPLANATORY NOTE

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

This Act of Adjournal gives effect to certain recommendations of the Second Report of the Thomson Committee on Criminal Procedure in Scotland (Cmmd. 6218). Paragraph 3 provides for new simplified forms of complaint, notice of penalty, citation and previous convictions in accordance with recommendations 74 and 77. Paragraph 4 cancels the existing forms under the power contained in Section 457(c) of the 1975 Act. Paragraph 5 provides that the procurator fiscal should send the accused person a form of letter for completion and return by him indicating how he pleads in accordance with recommendation 76, and certain other forms. Paragraph 6 provides that the procurator fiscal only requires to sign the principal complaint and the citation to the accused person in accordance with recommendation 79 and not the service copy complaint, the notice of previous convictions and notice of penalties as under the existing practice.

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