STATUTORY INSTRUMENTS

1975 No. 837 (S. 144)

SUMMARY JURISDICTION, SCOTLAND

Act of Adjournal (Summary Procedure) 1975

Made - - - -	*9th May* 1975
Coming into Operation	*16th May* 1975

The Lord Justice General, Lord Justice Clerk and Lords Commissioners of Justiciary, by virtue of the powers conferred upon them by section 76 of the Summary Jurisdiction (Scotland) Act 1954**(a)** as amended **(b)**, and of all other powers competent to them in that behalf, do hereby enact as follows:—

1. This Act of Adjournal may be cited as the Act of Adjournal (Summary Procedure) 1975, and shall come into operation on 16th May 1975.

2. In every Appeal to the High Court of Justiciary in summary procedure whether by Stated Case under the provisions of Section 62 of the Summary Jurisdiction (Scotland) Act 1954 or by suspension or otherwise, if the solicitor acting for any party does not practise in Edinburgh it shall be the duty of that solicitor to appoint an Edinburgh solicitor, hereinafter referred to as "the Edinburgh solicitor", who will be responsible to the High Court for the due execution of all duties relative to procedure in the Appeal which fall to be carried out by the solicitor for such party.

3. The duty laid upon an Appellant under the provisions of Sub-section (4) of Section 67 of the Summary Jurisdiction (Scotland) Act 1954 shall, unless an Appellant has no solicitor, be carried out by the Edinburgh solicitor who shall lodge the Stated Case and the relative Certificate of Intimation, along with an appropriate Inventory of Process, and shall pay the prescribed fee.

4. It shall be the duty of the Edinburgh solicitor acting for any Respondent to attend at the Justiciary Office and enter appearance as soon as he shall have received instructions in terms of Section 2 of this Act of Adjournal.

5. The Clerk of Justiciary shall from time to time after such consultation with the Lord Justice General or Lord Justice Clerk as may be necessary, issue a list of cases for disposal with the diet fixed for their hearing on the Justiciary Roll and shall give to the Edinburgh solicitors for the parties at least fourteen days notice of the date fixed for the hearing.

6. It shall be the duty of the Edinburgh solicitor acting for the Appellant in an appeal by Stated Case or for the Complainer in an appeal by Suspension or Advocation, or of the Appellant or Complainer personally if he has no professional representation, to arrange for the printing of the Stated Case or Bill and the relative complaint and proceedings before the Inferior Court and, not later than seven days before the date fixed for the hearing, to return the process to the Clerk of Justiciary and to furnish to the Clerk of Justiciary for the use of the Court, and to the Edinburgh solicitor for the Respondent copies of the print of the Appeal and proceedings in conformity with current practice.

(a) 1954 c. 48 **(b)** 1963 c. 39

7. If a party who has no solicitor, or the Edinburgh solicitor, finds that for any reason it is not possible within the appropriate time to comply with the provisions of the foregoing section he shall, not later than seven days before the date fixed for the hearing, intimate the reason for such failure to comply to the Clerk of Justiciary who may at his discretion allow the case to drop from that Roll, or may take no action.

8. If the case is not allowed to drop from the Roll in terms of the immediately preceding section, the Court shall, at the diet of hearing, decide what should be done in the circumstances, and may dismiss the Appeal.

9. An Edinburgh solicitor who presents to the Clerk of Justiciary a Bill of Suspension or of Suspension and Liberation with a request for a First Deliverance shall, if he is not at the time of presentation nominated as Edinburgh solicitor in a full Appeal Certificate granted under the provisions of Section 21(1)(*a*) of the Legal Aid (Scotland) (Criminal Proceedings) Scheme, 1964, being the Scheme made under section 8 of the Legal Aid (Scotland) Act 1967**(a)** be personally responsible to the Court for the performance of the obligations, including the obligation to provide prints, specified in Section 6 of this Act of Adjournal. The Clerk of Justiciary shall in appropriate cases draw to the attention of any solicitor presenting a Bill in which an Appeal Certificate has not been granted the provisions of this section.

10. Where a Bill contains *inter alia* a prayer for suspension *ad interim* of any order, or for interim liberation, it shall be competent for the judge before whom such Bill is laid for a First Deliverance, if he shall think fit, to hear Counsel for the parties on the interim prayer either before the grant of such First Deliverance or at any time subsequent thereto.

11. No order for suspension *ad interim* or for interim liberation shall take effect until the Bill shall have been served on the Respondent and the principal thereof exhibited to the Clerk of the Inferior Court.

12. It shall be the duty of the Clerk of any Inferior Court in any proceedings by Bill of Suspension to engross on the principal of the Bill when it is exhibited to him a certificate as to the appropriate exhibition, and if caution for interim liberation be then found, as to the finding of such caution. When caution for interim liberation is found at any time after the exhibition of the Bill to the Clerk of the Inferior Court, that Clerk shall forthwith intimate to the Clerk of Justiciary that caution has been found and that the Complainer has been liberated.

(Sgd.) *G. C. Emslie*, I.P.D.

9th May 1975.

EXPLANATORY NOTE

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

This Act of Adjournal provides that in all Appeals in Summary Procedure an Edinburgh solicitor shall be appointed for each appeal; and it prescribes the duties of such solicitor in relation to such an appeal.

(a) 1967 c. 43

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