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S T A T U T O R Y   I N S T R U M E N T S

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**1981 No. 22 (S. 2)**  
**HIGH COURT OF JUSTICIARY, SCOTLAND**  
**SUMMARY JURISDICTION, SCOTLAND**  
**Act of Adjournal (Procedures under Criminal Justice (Scotland)**  
**Act 1980 No. 1) 1981**

*Made*           -   -   -                            9th January 1981  
*Coming into Operation*                           1st February 1981

The Lord Justice General, the Lord Justice Clerk, and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred upon 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, commencement and interpretation*

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Procedures under Criminal Justice (Scotland) Act 1980 No. 1) 1981 and shall come into operation on 1st February 1981.

(2) In this Act of Adjournal, “the Act” means the Criminal Justice (Scotland) Act 1980(b).

(3) Except where the context otherwise requires, expressions used in this Act of Adjournal and in the said Act of 1975 shall have the same meanings in this Act of Adjournal as in that Act.

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

*Citation of defence witnesses for precognition*

2.—(1) An application to the sheriff made by an accused under section 9(1) of the Act for warrant to cite any person to appear before the sheriff in chambers for precognition on oath by the accused or his solicitor shall be made—

- (a) to the sheriff in whose sheriffdom the proceedings in respect of which the accused seeks that person’s precognition have been commenced;
- (b) by way of petition in the appropriate form set out in Form 1 of the Schedule to this Act of Adjournal or as nearly as may be in that form having regard to the particular circumstances.

(2) On an application being made to the sheriff under paragraph (1), he shall—

- (a) order intimation of the application to be made to the procurator fiscal;
- (b) fix a diet for a hearing of the application.

(3) If, after the hearing, the sheriff is satisfied that it is reasonable to require such precognition on oath in the circumstances, he shall—

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(a) 1975 c. 21, as amended by the Criminal Justice (Scotland) Act 1980 (c.62).

(b) 1980 c.62.

- (a) order the precognition to be taken;
- (b) fix a diet for it to be taken;
- (c) grant warrant to cite the person from which it is to be taken.

(4) Citation of that person to attend the diet fixed for taking his precognition on oath shall be made by way of personal service on him by an officer of law acting on the instructions of the accused or his solicitor, and relative execution of service shall be produced at the diet fixed under paragraph (3)(b).

(5) If that person fails to appear at that diet and the sheriff issues a warrant for his apprehension under section 9(2) of the Act, execution of that warrant—

- (a) shall be executed by an officer of law instructed by the accused or his solicitor;
- (b) may proceed on a copy of the petition and warrant duly certified by the sheriff clerk,

and the sheriff clerk shall immediately give notice of that person's failure to appear at the diet to the procurator fiscal.

(6) Where that person appears before the sheriff to have his precognition taken on oath, the proceedings shall be recorded in shorthand by an official shorthand writer instructed by the accused or his solicitor.

(7) The shorthand writer shall extend his shorthand notes recording the proceedings, sign the transcript, and lodge it with the sheriff clerk.

(8) On the transcript being lodged, the sheriff clerk shall—

- (a) send a copy to the solicitor for the accused, or if he is not represented to the accused;
- (b) fix a diet for the person whose precognition has been taken on oath to attend before the sheriff to sign the precognition.

(9) The solicitor for the accused, or if he is unrepresented the accused, shall be liable for payment of—

- (a) the fees of the shorthand writer;
- (b) the expenses of the person precognosced on oath and shall tender any such expenses in advance if required by that person to do so.

(10) If the accused is unrepresented, the sheriff may at the hearing of the application, or at any time prior to the precognition being taken, order the accused to consign in court such sum as he may be required to pay under paragraph (9) in respect of fees and expenses on or before such date as the sheriff may specify in the order.

(11) If the sheriff orders the accused to consign a sum in court under paragraph (10) and that sum is not consigned by the date specified in the order, the application shall be treated as abandoned.

#### *Discharge and assignation of diets in summary procedure*

3.—(1) Where the prosecutor and the accused propose to make a joint application orally to the court under section 314(4) of the said Act of 1975 for postponement of a diet that has been fixed, they may only do so at a diet which has been duly assigned and which has been regularly called.

(2) An application by an accused under section 314(6) shall be made in the form set out in Form 2 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

*Prevention of delay in trials*

4.—(1) A note of appeal presented to the High Court under section 101(5) of the said Act of 1975 shall be made in the appropriate form set out in Form 3 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(2) A note of appeal presented to the High Court under section 331A(3) of the said Act of 1975 shall be made in the form set out in Form 4 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(3) A note of appeal under the said section 101(5) or 331A(3) shall be served by the appellant on—

- (a) the respondent, and
- (b) the clerk of the court against whose decision the appeal is taken.

(4) The appellant in a note of appeal under either of these sections shall lodge with the Clerk of Justiciary—

- (a) the note of appeal, and
- (b) the execution of service in respect of the persons mentioned in paragraph (3).

(5) The clerk of the court against whose decision the appeal is taken shall, as soon as practicable after being served with the note of appeal, transmit to the Clerk of Justiciary the original application and all the relative documents; and the Clerk of Justiciary shall on receipt thereof assign the appeal to the roll and intimate the date of the diet to the appellant and the respondent.

*Restrictions on report of proceedings involving a person under 16*

5.—(1) Any direction made by a court under sub-paragraph (i) of the proviso to sections 169 and 374 shall specify the person in respect of whom the direction is made.

(2) Any direction made by a court under sub-paragraph (ii) of the proviso to the said sections shall specify the person in respect of whom the direction is made and the extent to which the provisions of the section in question are dispensed with in relation to that person.

(3) Any such direction shall be pronounced in open court and its terms shall be recorded in the record or minutes of proceedings, as the case may be, and the direction as so recorded shall be authenticated by the signature of the presiding judge.

*Procedure relating to use of autopsy and forensic science reports in evidence*

6.—(1) For the purposes of the application of section 26(6) of the Act to any summary proceedings, an autopsy report shall not be treated as having been lodged as a production by the prosecutor unless it has been lodged as a production not later than 14 days before the date of the trial diet.

(2) For the purpose of the application of section 26(7) of the Act to any summary proceedings, the prosecutor shall intimate his intention in accordance with the provisions of sub-section (7) by serving a copy of the autopsy or forensic science report lodged by him on the accused together with a notice of his said intention not later than 14 days before the date of the trial diet.

(3) Any notice given by an accused in solemn or summary proceedings under the said section 26(6) shall be in writing and shall be given to the prosecutor.

*Letters of request*

7.—(1) An application to the court by the prosecutor or the defence under section 31(2)(a) of the Act for the issue of a letter of request shall be made by way of petition in the appropriate form set out in Form 5 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(2) An application so made shall be lodged—

- (a) where it relates to proceedings in the High Court or to proceedings in respect of which the court where the trial is to take place is not yet known, with the Clerk of Justiciary;
- (b) where it relates to proceedings in the sheriff court, with the sheriff clerk,  
and shall be accompanied by a proposed letter of request in the form set out in Form 6 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(3) An application made to the High Court may be disposed of by a single judge.

(4) The High Court or the sheriff shall on the application being placed before them—

- (a) order intimation on the other party or parties to the proceedings;
- (b) subject to paragraph (5), allow such time for lodging answers as appears appropriate;
- (c) fix a diet for hearing the application and answers (if any).

(5) The High Court or the sheriff may dispense with answers to an application under this rule on cause shown.

(6) The High Court or the sheriff may, after considering the application and answers (if any) either grant the application with or without modification, or refuse it.

(7) On granting an application under this rule, the High Court or the sheriff, as the case may be, 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.

(8) The solicitor for the applicant, or if he is unrepresented the applicant, shall be liable for the expenses of the application; and the High Court or the sheriff, as the case may be, may order the solicitor for the applicant, or the applicant, to consign in court such sum in respect of these expenses as they may specify on or before such date as they may specify; and 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.

(9) On the High Court or the sheriff pronouncing a deliverance under paragraph (7), or in a case where a translation requires to be lodged, on the

lodging of the translation, the Clerk of Justiciary or the sheriff clerk as the case may be, shall send the letter of request and relative documents to the Secretary of State for Foreign Affairs for onward transmission to the body to whom the letter of request is addressed.

(10) On sending the letter of request and relative documents to the Secretary of State, the Clerk of Justiciary or the sheriff clerk, as the case may be, shall note the documents sent, to whom they were sent, and the date on which they were sent, on the application, or on the record copy indictment, or in summary proceedings, in the minutes of proceedings.

(11) On the relative documents being returned to him, the Clerk of Justiciary or the sheriff clerk, as the case may be, shall

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

(12) The Clerk of Justiciary or the sheriff clerk, as the case may be, shall, subject to paragraph (13), keep the documents mentioned in paragraph (11) in their custody.

(13) In any case where the application was made to the High Court on the ground that the court in which the trial was to take place was not then known the prosecutor shall, as soon as that court is known, inform the Clerk of Justiciary accordingly; and if that court is the sheriff court, the Clerk of Justiciary shall as soon as is practicable send to the sheriff clerk of the sheriff court in question the record of the evidence of the witness or witnesses in question.

(14) In any case where the record of the evidence of a witness is in the custody of the Clerk of Justiciary or a sheriff clerk under paragraph (12) or (13), and where intimation has been given to that effect to all the parties concerned in the proceedings under paragraph (11), the name and address of that witness and the record of his evidence shall be treated as being within the knowledge of those parties; and no party shall be required notwithstanding any enactment to the contrary—

- (a) to include the name of that witness in any list of witnesses;
- (b) to include the record of his evidence in any list of productions.

(15) 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 this rule unless the party seeking to make such reference has made a motion to the court to that effect and that motion has been granted.

(16) The terms of any motion made under paragraph (15) and the grant or refusal of that motion by the court shall be noted by the clerk of court in the record of proceedings.

(17) In solemn procedure, on any such motion being granted—

- (a) the judge may direct copies of the evidence to which he has granted leave to make reference to be provided to the jury by the party making the motion,
- (b) the clerk of court shall read the record of that evidence to the jury and shall then record that fact in the record of proceedings.

*Evidence on commission*

8.—(1) An application to the court by the prosecutor or the defence under section 32(1)(b) of the Act for the appointment of a commissioner to examine a witness to whom that section applies shall be made by way of petition in the appropriate form set out in Form 7 of the Schedule to this Act of Adjournal, or as nearly as may be in that form having regard to the particular circumstances.

(2) An application so made shall be lodged—

- (a) where it relates to proceedings in the High Court or to proceedings in respect of which the court where the trial is to take place is not yet known, with the Clerk of Justiciary;
- (b) where it relates to proceedings in the sheriff court, with the sheriff clerk.

(3) On making an order granting an application under this rule, the High Court or the sheriff, as the case may be, shall appoint a commissioner to examine the witness or witnesses to whom the order applies and a clerk to assist the commissioner in the carrying out of his duties; and shall dispense with interrogatories.

(4) On the court making an order under paragraph (3), the Clerk of Justiciary or the sheriff clerk, as the case may be, shall send the order to either the commissioner or his clerk together with the other relative documents.

(5) On the sending of the relative order and documents to the commissioner or his clerk under paragraph (4), the Clerk of Justiciary or the sheriff clerk, as the case may be, shall note the order and documents sent, to whom they were sent, and the date on which they were sent, on the application, or on the record copy indictment, or in summary proceedings, in the minutes of proceedings.

(6) The commissioner shall, on receiving the order and documents mentioned in paragraph (4), determine the place and the date and time of the diet or diets for the examination of the witness or witnesses to whom the order of the court relates, and shall give reasonable notice of these matters to all the parties concerned; and the commissioner may vary or revoke his determination or adjourn the examination of any witness to such other place, at such other date and time as he may determine.

(7) If in the course of the examination of a witness under this rule any question arises as to the admissibility of any evidence, the commissioner shall not determine any such question but shall allow the evidence subject to all questions of competency and relevancy.

(8) On the carrying out of his commission in accordance with the terms of the order appointing him, or otherwise on concluding his commission, the commissioner shall complete a written report of his commission and he or his clerk shall return the report and relative documents to the Clerk of Justiciary or the sheriff clerk as the case may be.

(9) Paragraphs (3) to (6), (8) and (11) to (17) of rule 7 shall apply to an application to which this rule applies as they apply to an application to which that rule applies.

Edinburgh,  
9th January 1981.

*Emslie,*  
Lord Justice General, I.P.D.

SCHEDULE

FORMS REFERRED TO IN THE FOREGOING RULES

FORM 1A

Rule 2

PETITION TO TAKE PRECOGNITION ON OATH IN SOLEMN  
PROCEDURE WHERE INDICTMENT SERVED

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION

of

A.B.

designation, address or Prisoner in the  
Prison of .....

HUMBLY SHEWETH:

(1) That the petitioner has (along with C.D., E.F. and G.H.) been indicted in your  
Lordship's Court/in the High Court of Justiciary at the instance of X.Y., Her Majesty's  
Advocate with the offence of .....

(2) That the trial of the said A.B. is to take place in your Lordship's Court/in the  
High Court of Justiciary sitting at ..... on .....

(3) That the petitioner believes that M.N. residing at .....  
..... is a witness in relation to the said  
offence;/That M.N. residing at .....  
..... is witness No. .... on the List of Witnesses  
attached to the Indictment;

(4) That (narrate all steps taken to obtain precognition from the witness and/or the  
circumstances justifying the taking of the precognition on oath);

(5) That I am unable to complete my investigation on behalf of the petitioner without  
precognoscing the said M.N.:

MAY IT THEREFORE please your Lordship:

- (1) to appoint intimation of this Petition to be made to the said X.Y.;
- (2) to appoint parties to be heard thereupon on the earliest practicable date  
hereafter; and
- (3) thereafter, on being satisfied in terms of section 9 of the said Act that  
it is reasonable to require such precognition on oath, to grant warrant to  
cite the said M.N. to attend for precognition on oath before your Lordship  
on the earliest practicable date thereafter or to do otherwise as to your  
Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 2

FORM 1B

PETITION TO TAKE PRECOGNITION ON OATH WHERE  
PETITION OR COMPLAINT SERVED

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION  
of  
A.B.

designation, address or Prisoner in the  
Prison of .....

HUMBLY SHEWETH:

(1) That the petitioner has (along with C.D., E.F. and G.H.) been charged in your Lordship's Court/in the District Court at .....  
on a summary complaint/petition at the instance of the Procurator Fiscal with the  
offence of .....

[(2) That the trial of the said A.B. is to take place in the said Court on.....  
.....;]

(3) That the petitioner believes that M.N. residing at .....  
..... is a witness in relation to the said offence;

(4) That (narrate all steps taken to obtain precognition from the witness and/or the  
circumstances justifying the taking of the precognition on oath);

(5) That I am unable to complete my investigations on behalf of the petitioner without  
precognosing the said M.N.:

MAY IT THEREFORE please your Lordship:

- (1) to appoint intimation of this Petition to be made to the Procurator Fiscal;
- (2) to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
- (3) thereafter, on being satisfied in terms of section 9 of the said Act that it is reasonable to require such precognition on oath, to grant warrant to cite the said M.N. to attend for precognition on oath before your Lordship on the earliest practicable date thereafter or to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.



FORM 2 Rule 3 (2)
PETITION FOR ALTERATION OF DIET IN SUMMARY PROCEEDINGS

Under the Criminal Procedure (Scotland) Act 1975, as amended

IN THE COURT AT

PETITION of A.B.

designation, address or Prisoner in the Prison of

HUMBLY SHEWETH:

- (1) That the petitioner has (along with C.D., E.F. and G.H.) been charged in the above Court on a summary complaint at the instance of the Procurator Fiscal with the offence of;
(2) That a diet in the proceedings has been fixed for (date);
(3) That (narrate circumstances on which application is based);
(4) That the said AB has intimated to the said (C.D., E.F., G.H. and) Procurator Fiscal that he desires a postponement/an acceleration of the said trial diet;
(5) That the Procurator Fiscal refuses and/or the said C.D., E.F. and G.H. refuse to make a joint application to the Court for that purpose:

The Petitioner therefore craves the Court:

- (1) to appoint intimation of this Petition to be made to the said (C.D., E.F., G.H., or) Procurator Fiscal;
(2) to appoint parties to be heard thereupon; and
(3) thereafter, in terms of section 314(6) of the said Act, to discharge the said diet and to fix in lieu thereof a later/earlier diet.

ACCORDING TO JUSTICE &c
Solicitor for the said petitioner.

Rule 4(1)

FORM 3A

NOTE OF APPEAL AGAINST EXTENSION OF 12 MONTHS  
PERIOD  
NOTE OF APPEAL

Criminal Procedure (Scotland) Act 1975, Sec. 101(1) and (5) as amended by  
Criminal Justice (Scotland) Act 1980, Sec. 14

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL,  
LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF JUSTICIARY  
The Appeal of .....  
whose domicile of citation has been sisted as .....

against Her Majesty's Advocate,  
HUMBLY SHEWETH

*Appellant*  
*Respondent*

1. That at the Sheriff Court ..... on .....  
the Appellant (along with C.D., E.F. and G.H.) appeared on Petition at the instance  
of the Procurator Fiscal of that Court on charges of .....
2. That he was committed for trial on.....  
and was released on bail on.....
- 3.\* That an indictment has been served on him to stand trial at .....  
..... on .....
- 4.\* That an application in terms of section 101(1)(ii) was presented to .....  
..... Court on ..... by .....  
..... and heard within the ..... Court  
at ..... on .....
5. That Lord/Sheriff ..... extended the period of 12 months which  
would have expired on ..... by ..... days.
6. That the grant of said extension is unreasonable in respect that (here state shortly  
reasons for appeal).

\*Delete and adopt as appropriate.

ACCORDING TO JUSTICE &c  
Solicitor for Appellant.

Date ..... 19.....

FORM 3B

Rule 4(1)

NOTE OF APPEAL AGAINST EXTENSION OF 80 DAYS PERIOD  
NOTE OF APPEAL

Criminal Procedure (Scotland) Act 1975, Sec. 101(3) & (5) as amended by  
Criminal Justice (Scotland) Act 1980, Sec. 14.

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

The Appeal of ..... presently prisoner in  
the Prison of ..... *Appellant*  
against Her Majesty's Advocate ..... *Respondent*

HUMBLY SHEWETH

1. That at the Sheriff Court ..... on (date) ..... the Appellant (along with C.D., E.F. and G.H.) appeared on Petition at the instance of the Procurator Fiscal of that Court on charges of .....
2. That he was committed until liberated in due course of law on ..... and remains in custody.
3. That no indictment has been served on him.
4. That an application in terms of section 101(3) was presented to the High Court, Edinburgh, on (date) ..... by or on behalf of the Lord Advocate and was heard within that Court on (date) .....
5. That Lord ..... extended the period of 80 days which would have expired on (date) ..... by ..... days.
6. That the grant of such extension is unreasonable in respect that (here state shortly the reasons for Appeal).

ACCORDING TO JUSTICE &c  
Solicitor for Appellant.

Date ..... 19.....

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 4(1)

FORM 3C

NOTE OF APPEAL AGAINST EXTENSION OF 110 DAYS PERIOD  
NOTE OF APPEAL

Criminal Procedure (Scotland) Act 1975, Sec. 101(4) & (5) as amended by  
Criminal Justice (Scotland) Act 1980, Sec. 14

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

The Appeal of ..... presently prisoner in the  
Prison of ..... *Appellant*  
against Her Majesty's Advocate *Respondent*

HUMBLY SHEWETH

1. That at the Sheriff Court ..... on (date) .....  
the Appellant (along with C.D., E.F. and G.H.) appeared on Petition at the instance  
of the Procurator Fiscal of that Court on charges of .....
2. That he was committed until liberated in due course of law on .....  
and remains in custody.
3. That he had been indicted to stand trial within the Court sitting at .....  
..... on .....
4. That an application in terms of section 101(4) was presented to the High Court,  
Edinburgh, on (date) ..... by or on behalf of the Lord  
Advocate and was heard within the Court on (date) .....
5. That Lord ..... extended the period of 110 days which would  
have expired on (date) ..... by ..... days.
6. That the grant of said extension is unreasonable in respect that (here state shortly  
the reasons for Appeal).

ACCORDING TO JUSTICE &c

Solicitor for Accused.

Date.....19.....

FORM 4

Rule 4(2)

NOTE OF APPEAL AGAINST EXTENSION OF 40 DAYS PERIOD  
NOTE OF APPEAL

Criminal Procedure (Scotland) Act 1975, Sec. 331A(2) & (3)

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD  
JUSTICE CLERK and LORDS COMMISSIONERS OF JUSTICIARY

The Appeal of ..... presently prisoner in the  
Prison of .....

*Appellant*

HUMBLY SHEWETH

1. That at the Sheriff/District Court ..... on (date) .....  
..... the Appellant (along with C.D., E.F. and G.H.) appeared on a  
Complaint at the instance of the Procurator Fiscal on charges of .....
2. That he pled not guilty and trial was fixed for ..... and  
the appellant was remanded in custody.
3. That an application in terms of section 331A(2) was presented to the Sheriff at  
..... on (date) ..... (in District Court  
cases add—he having concurrent territorial jurisdiction with the Lay Justices/  
Stipendiary Magistrate(s) of said District Court) and said application was heard  
before Sheriff in said Sheriff Court on (date) .....
4. That Sheriff ..... extended the period of 40 days which  
would have expired on (date) ..... by ..... days.
5. That the grant of said extension is unreasonable in respect that (here state  
shortly reasons for Appeal).

ACCORDING TO JUSTICE &c

Solicitor for Appellant.

Date ..... 19 .....

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 7(1)

FORM 5A

PETITION FOR ISSUE OF LETTER OF REQUEST WHERE  
INDICTMENT IN HIGH COURT SERVED

HIGH COURT OF JUSTICIARY, SCOTLAND  
UNTO THE RIGHT HONOURABLE THE LORD JUSTICE-GENERAL,  
THE LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF  
JUSTICIARY

PETITION

of

A.B.

Prisoner in the Prison of .....

HUMBLY SHEWETH:

- (1) That the said A.B. 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. residing at ..... in the country or territory of ..... is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;
- (4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;
- (5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;
- (6) That Z .....  
.....  
is a court or tribunal exercising jurisdiction in the said country or territory of .....  
..... being a country or territory outside the United Kingdom, Channel Islands or Isle of Man;
- (7) That English is (not) the official language or one of the official languages of the said country or territory:

MAY IT THEREFORE please your Lordships:

- (1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) X.Y.;
- (2) to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
- (3) thereafter, upon being duly satisfied in terms of section 32(2) of the said Act, to issue a letter of request to (state judge or tribunal within whose jurisdiction the witness is resident) to take the evidence of the said witness; and to do otherwise as to your Lordships shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioners.

## FORM 5B

Rule 7(1)

PETITION FOR ISSUE OF LETTER OF REQUEST IN HIGH  
COURT BEFORE INDICTMENT SERVED  
HIGH COURT OF JUSTICIARY, SCOTLAND  
UNTO THE RIGHT HONOURABLE THE LORD JUSTICE-GENERAL,  
THE LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF  
JUSTICIARY

PETITION

of

A.B.

Prisoner in the Prison of .....

HUMBLY SHEWETH:

- (1) That the said A.B. was (along with C.D., E.F. and G.H.,) on .....  
in the Sheriff Court at ..... committed to prison till liberated  
in due course of law on a Petition at the instance of the Procurator Fiscal in the said  
Court charging the said ..... with the crime of .....
- (2) That no indictment has been served upon the said A.B. in respect of the said crime  
and that accordingly the Court in which any trial of the said A.B. in respect of the  
crime for which he stands committed is not yet known;
- (3) That M.N. residing at ..... in the country or  
territory of ..... is a witness whose evidence the said A.B.  
intends to adduce in the course of the said trial;
- (4) That the evidence to the effect specified in the Schedule attached hereto which it  
is averred that the said witness is able to give is necessary for the proper adjudication  
of the said trial;
- (5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor  
if such evidence were to be received in the form of the record of an examination  
conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;
- (6) That Z .....  
.....  
is a court or tribunal exercising jurisdiction in the said country or territory of  
..... being a country or territory outside the United Kingdom,  
Channel Islands or Isle of Man;
- (7) That English is (not) the official language or one of the official languages of the  
said country or territory:

MAY IT THEREFORE please your Lordships:

- (1) to appoint intimation of this Petition and Schedule to be made to the  
said (C.D., E.F., G.H., or) Procurator Fiscal;
- (2) to appoint parties to be heard thereupon on the earliest practicable date  
hereafter; and
- (3) thereafter, upon being duly satisfied in terms of section 32(2) of the  
said Act, to issue a letter of request to (state judge or tribunal within whose  
jurisdiction the witness is resident) to take the evidence of the said witness;  
and to do otherwise as to your Lordships shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioners.

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 7(1)

FORM 5C

PETITION FOR ISSUE OF LETTER OF REQUEST IN SOLEMN  
PROCEEDINGS IN SHERIFF COURT

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION

of

A.B.

designation, address or Prisoner in the

Prison of .....

**HUMBLY SHEWETH:**

(1) That the petitioner has been indicted (along with C.D., E.F. and G.H.) in your Lordship's Court at the instance of X.Y., Her Majesty's Advocate 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. residing at ..... in the country or territory of ..... is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;

(4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;

(5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

(6) That Z .....

.....  
is a court of tribunal exercising jurisdiction in the said country or territory of ..... being a country or territory outside the United Kingdom, Channel Islands or Isle of Man;

(7) That English is (not) the official language or one of the official languages of the said country or territory:

**MAY IT THEREFORE please your Lordship:**

(1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) X.Y.;

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

(3) thereafter, upon being duly satisfied in terms of section 32(2) of the said Act, to issue a letter of request to (state judge or tribunal within whose jurisdiction the witness is resident) to take the evidence of the said witness; and to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.



FORM 5D

Rule 7(1)

PETITION FOR ISSUE OF LETTER OF REQUEST IN SUMMARY  
PROCEEDINGS IN SHERIFF COURT

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION

of

A.B.

designation, address or Prisoner in the

Prison of .....

HUMBLY SHEWETH:

(1) That the petitioner 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 the Procurator Fiscal 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. residing at ..... in the country or territory of ..... is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;

(4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;

(5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

(6) That Z .....

.....  
is a court or tribunal exercising jurisdiction in the said country or territory of ..... being a country or territory outside the United Kingdom, Channel Islands or Isle of Man;

(7) That English is (not) the official language or one of the official languages of the said country or territory:

MAY IT THEREFORE please your Lordship:

(1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) Procurator Fiscal;

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

(3) thereafter, upon being duly satisfied in terms of section 32(2) of the said Act, to issue a letter of request to (state judge or tribunal within whose jurisdiction the witness is resident) to take the evidence of the said witness; and to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 7(2)

FORM 6

LETTER OF REQUEST

Whereas an Indictment [or complaint] at the instance of Her Majesty's Advocate [or the Procurator Fiscal] is now pending in the High Court of Justiciary [or Sheriff Court of .....] at ..... [or whereas criminal proceedings are pending against A.B. (C.D., E.F. and G.H.)] in which A.B. (C.D., E.F. and G.H.) are charged with the offence of ....., [and an application having been made to the High Court of Justiciary] and whereas it has been represented to the said Court that it is necessary, for the purposes of justice and for the proper adjudication of the trial of said A.B. (C.D., E.F. and G.H.) that the following person should be examined as a witness upon [oath or affirmation], that is to say:

M.N., of ....., who will give evidence to the effect that

[or that the following evidence shall be obtained, that is to say .....] and it appearing that such witness is resident [or such evidence is] within the jurisdiction of your honourable Court [or tribunal]:

Now I, the Right Honourable ..... Lord Justice General [or Lord Justice Clerk] [or I, the Honourable .....

Lord Commissioner of Justiciary] or I [..... Sheriff Principal [or Sheriff] of the Sheriffdom of ....., have the

honour to request, and do hereby request, that for the reasons aforesaid, and for the assistance of the said Court, you as the President and judges of the said Court [or tribunal] or some one or more of you, will be pleased to summon the said witness to attend at such time and place as you shall appoint before some one or more of you, or such other person as, according to the procedure of your Court [or tribunal], is competent to take the examination of witnesses, and that you will cause such witness to be examined upon the interrogatories which accompany this letter of request in the presence of the solicitors, procurators or attorneys of Her Majesty's Advocate [or the said Procurator Fiscal] and the said A.B., or such of them as shall, on due notice given, attend such examination [or will be pleased to take such steps as, according to the procedure of your Court [or tribunal], are competent to obtain such evidence]. And I have further the honour to request that you will be pleased to cause the answers by the witness to the said interrogatories to be reduced to writing, and all books, letters, papers and documents produced upon such examination [or evidence so obtained] to be duly marked for identification; and that you will be further pleased to authenticate such examination [or evidence] by the seal of your Court [or tribunal], or in such other way as is in accordance with your procedure, and to return the same through Her Majesty's Secretary of State for Foreign & Commonwealth Affairs, for transmission to the said Court.

(signed by the Lord Justice General [or Lord Justice Clerk] [or Lord Commissioner of Justiciary] [or Sheriff Principal] [or Sheriff].)

(date) .....

(address of Foreign Court or tribunal)

FORM 7A

Rule 8(1)

PETITION FOR COMMISSION TO TAKE EVIDENCE  
IN HIGH COURT WHERE INDICTMENT SERVED

HIGH COURT OF JUSTICIARY, SCOTLAND  
UNTO THE RIGHT HONOURABLE THE LORD JUSTICE-GENERAL,  
THE LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF  
JUSTICIARY

PETITION

of

A.B.

Prisoner in the Prison of .....

HUMBLY SHEWETH:

(1) That the said A.B. 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. residing at .....

.....  
being a country or territory within the United Kingdom, Channel Islands or Isle of Man is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;

(4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;

(5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

MAY IT THEREFORE please your Lordships:

(1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) X.Y.;

(2) to appoint parties to be heard thereupon on the earliest practicable date hereafter: and

(3) thereafter, upon being duly satisfied in terms of section 32(2) of the said Act to appoint .....

.....  
or such other person as your Lordships shall think fit to be a Commissioner to take the evidence of the said witness and to report to your Lordships *quam primum*; and to do otherwise as to your Lordships shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioners.

Rule 8(1)

FORM 7B

PETITION FOR COMMISSION TO TAKE EVIDENCE IN HIGH  
COURT WHERE NO INDICTMENT SERVED  
HIGH COURT OF JUSTICIARY, SCOTLAND  
UNTO THE RIGHT HONOURABLE THE LORD JUSTICE-GENERAL,  
THE LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF  
JUSTICIARY

PETITION  
of  
A.B.

Prisoner in the Prison of .....

HUMBLY SHEWETH:

(1) That the said A.B. was (along with C.D., E.F., and G.H.,) on .....  
in the Sheriff Court at ..... committed to prison  
till liberated in due course of law on a Petition at the instance of the Procurator  
Fiscal in the said Court charging the said ..... with the crime  
of .....

(2) That no indictment has been served upon the said A.B. in respect of the said  
crime and that accordingly the Court in which any trial of the said A.B. in respect  
of the crime for which he stands committed is not yet known;

(3) That M.N. residing at .....

.....  
being a country or territory within the United Kingdom, Channel Islands or Isle of  
Man is a witness whose evidence the said A.B. intends to adduce in the course of the  
said trial;

(4) That the evidence to the effect specified in the Schedule attached hereto which  
it is averred that the said witness is able to give is necessary for the proper adjudication  
of the said trial;

(5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor  
if such evidence were to be received in the form of the record of an examination  
conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

MAY IT THEREFORE please your Lordships:

(1) to appoint intimation of this Petition and Schedule to be made to the  
said (C.D., E.F., G.H., or) X.Y.;

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

(3) thereafter, upon being duly satisfied in terms of section 32(2) of the said  
Act to appoint .....

.....  
or such other person as your Lordships shall think fit to be a Commissioner  
to take the evidence of the said witness and to Report to your Lordships  
*quam primum*; and to do otherwise as to your Lordships shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioners.

FORM 7C

Rule 8(1)

PETITION FOR COMMISSION TO TAKE EVIDENCE IN SOLEMN  
PROCEEDINGS IN SHERIFF COURT

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION

of

A.B.

designation, address or Prisoner in the  
Prison of .....

HUMBLY SHEWETH:

- (1) That the petitioner 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 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. residing at ..... within the United Kingdom, Channel Islands or Isle of Man is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;
- (4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;
- (5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

MAY IT THEREFORE please your Lordship:

- (1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) X.Y.;
- (2) to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
- (3) thereafter, upon being duly satisfied in terms of section 32(2) of the said said Act to appoint such person as your Lordship shall think fit to be a Commissioner to take the evidence of the said witness and to report to your Lordship *quam primum*; and to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.

HIGH COURT OF JUSTICIARY, SCOTLAND  
SUMMARY JURISDICTION, SCOTLAND

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Rule 8(1)

FORM 7D

PETITION FOR COMMISSION TO TAKE EVIDENCE IN SUMMARY  
PROCEEDINGS IN SHERIFF COURT

Under the Criminal Justice (Scotland) Act 1980

UNTO THE HONOURABLE THE SHERIFF OF .....

AT .....

PETITION

of

A.B.

designation, address or Prisoner in the  
Prison of .....

HUMBLY SHEWETH:

(1) That the petitioner has (along with C.D., E.F. and G.H.) been charged in your Lordship's Court on a summary complaint at the instance of the Procurator Fiscal 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. residing at ..... within the United Kingdom, Channel Islands or Isle of Man is a witness whose evidence the said A.B. intends to adduce in the course of the said trial;

(4) That the evidence to the effect specified in the Schedule attached hereto which it is averred that the said witness is able to give is necessary for the proper adjudication of the said trial;

(5) That there would be no unfairness to the said (C.D., E.F., G.H., or) prosecutor if such evidence were to be received in the form of the record of an examination conducted by virtue of section 32(1) of the Criminal Justice (Scotland) Act 1980;

MAY IT THEREFORE please your Lordship:

(1) to appoint intimation of this Petition and Schedule to be made to the said (C.D., E.F., G.H., or) Procurator Fiscal;

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

(3) thereafter, upon being duly satisfied in terms of section 32(2) of the said Act to appoint such person as your Lordship shall think fit to be a Commissioner to take the evidence of the said witness and to report to your Lordship *quam primum*; and to do otherwise as to your Lordship shall seem proper.

IN RESPECT WHEREOF

Solicitor for the said petitioner.

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**EXPLANATORY NOTE**

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

This Act of Adjournal makes provision for the procedure to be followed under the provisions of sections 9, 11, 14, 22, 26 and 32 of the Criminal Justice (Scotland) Act 1980 which came into operation on 1st February 1981.

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