SCOTTISH STATUTORY INSTRUMENTS

2003 No. 387

HIGH COURT OF JUSTICIARY

Act of Adjournal (Criminal Appeals) 2003

Made - - - -	*8th August 2003*
Coming into force - -	*1st September 2003*

The Lord Justice-General, the Lord Justice-Clerk and the Lords Commissions of Justiciary, under and by virtue of the powers conferred upon them by section 305 of the Criminal Procedure (Scotland) Act 1995(**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 (Criminal Appeals) 2003 and shall come into force on 1st September 2003.

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

Amendment of the Criminal Procedure (Scotland) Act 1995

2.—(1) The Criminal Procedure (Scotland) Act 1995 shall be amended in accordance with the following sub-paragraphs.

(2) In section 114 (applications made orally or in writing) after the word "Act" there shall be inserted "or to rules made under section 305 of this Act".

(3) In subsection (1) of section 115 (presentation of appeal in writing)—

(a) there shall be inserted at the beginning "Subject to rules made under section 305 of this Act,"; and

(b) there shall be omitted ", other than the Lord Advocate,".

Amendment of the Criminal Procedure Rules

3.—(1) The Criminal Procedure Rules 1996(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) In Chapter 15 (appeals from solemn proceedings)—

(a) in rule 15.1 (register and listing of appeals), after paragraph (3) there shall be inserted the following:—

(**1**) 1995 c. 46.
(**2**) S.I. 1996/513, to which there are amendments not relevant to this Act of Adjournal.

"(4) Subject to paragraph (5), the Clerk of Justiciary shall give the respective solicitors representing parties to an appeal so listed at least 14 days notice of the date fixed for the hearing of the appeal.

(5) In an appeal under sections 106(1)(b) to (e) or 108(1) of the Act of 1995, the period of notice mentioned in paragraph (4) shall be 42 days."; and

(b) after rule 15.15 (amended grounds of appeal) there shall be inserted the following:—

"**Presentation of solem sentence appeal in writing.**

15.16.—(1) This rule applies to an appeal under sections 106(1)(b) to (e) or 108(1) of the Act of 1995 listed in terms of rule 15.1(3) (register and lists of appeals).

(2) In an appeal to which paragraph (1) applies, the appellant shall present his case in writing.

(3) The solicitor for the appellant or, if unrepresented, the appellant shall—

(a) not later than 21 days before the date assigned for the appeal court hearing, lodge a case and argument in Form 15.16;

(b) lodge with the case and argument all documents, or a copy thereof, referred to or founded upon in the case and argument and not already lodged; and

(c) at the same time as he lodges the case and argument referred to in sub-paragraph (a) and the supporting documents referred to in sub-paragraph (b), send a copy to the Crown or, where the Crown is the appellant, to the respondent.

(4) The case and argument referred to in paragraph (3) shall be signed by counsel or the solicitor advocate representing the appellant in the appeal, or by the appellant where the appellant intends to conduct the appeal himself.

(5) At the hearing of the appeal—

(a) the case and argument and supporting documents referred to in paragraph (3) shall constitute the submissions of the appellant;

(b) unless it otherwise directs, the Court will expect the appellant to rely upon the case and argument without reading it over to the Court; and

(c) the appellant may make supplementary comments to the case and argument; and shall answer any points raised by the Court.

(6) On cause shown, the Court may permit the appellant to introduce new information that has come to light in the period since the case and argument was lodged.

(7) Where the Court permits the introduction of new information, it may at its discretion permit the lodging of additional documents in support of the new information.

(8) A party who wishes to introduce new information and lodge additional documents shall send a copy of the information and documents to the Clerk of Justiciary as soon as the information and documents come into the appellant's possession.

(9) A party who has sent new information and documents to the Clerk of Justiciary shall make application at the bar to allow it to be introduced or lodged, as the case may be.

(10) Where the documents referred to in paragraph (3) are not lodged timeously, the Deputy Principal Clerk of Justiciary shall refer the matter to the Lord Justice-General, whom failing the Lord Justice-Clerk, for such action as the Lord Justice-General or Lord Justice-Clerk, as the case may be, considers appropriate.".

(3) In Chapter 19 (appeals from summary proceedings)—

(a) in rule 19.14 (list of appeals)

(i) at the start of paragraph (2) there shall be inserted "Subject to paragraph (3)"; and

(ii) after paragraph (2) there shall be inserted the following:—

"(3) In an appeal under section 175(2)(b), (c) or (ca) or by virtue of section 175(4) of the Act of 1995, the period of notice mentioned in paragraph (2) shall be 42 days."; and

(b) after rule 19.17 (suspension of disqualification etc. under section 193 of the Act of 1995), there shall be inserted the following:—

"**Presentation of summary sentence appeal in writing**

19.18.—(1) This rule applies to an appeal under section 175(2)(b), (c) or (ca) or by virtue of section 175(4) of the Act of 1995 listed in terms of rule 19.14 (list of appeals).

(2) In an appeal to which paragraph (1) applies the appellant shall present his case in writing.

(3) The solicitor for the appellant or, if unrepresented, the appellant shall—

(a) not later than 21 days before the date assigned for the appeal court hearing, lodge a case and argument in Form 19.18;

(b) lodge with the case and argument all documents, or a copy thereof, referred to or founded upon in the case and argument and not already lodged; and

(c) at the same time as he lodges the case and argument referred to in sub-paragraph (a) and the supporting documents referred to in sub-paragraph (b), send a copy to the Crown or, where the Crown is the appellant, to the respondent.

(4) The case and argument referred to in paragraph (3) shall be signed by counsel or the solicitor advocate representing the appellant in the appeal, or by the appellant where the appellant intends to conduct the appeal himself.

(5) At the hearing of the appeal—

(a) the case and argument and supporting documents referred to in paragraph (3) shall constitute the submissions of the appellant;

(b) unless it otherwise directs, the Court will expect the appellant to rely upon the case and argument without reading it over to the Court; and

(c) the appellant may make supplementary comments to the case and argument; and shall answer any points raised by the Court.

(6) On cause shown, the Court may permit the appellant to introduce new information that has come to light in the period since the case and argument was lodged.