

## 1975 No. 473 (S. 62)

**HIGH COURT OF JUSTICIARY, SCOTLAND**  
**Act of Adjournal (Suspension of Disqualification from**  
**Driving pending Appeal) 1975**

*Made* - - - - - 18th March 1975

*Coming into Operation* 1st May 1975

The Lord Justice General, the Lord Justice Clerk and Lords Commissioners of Justiciary, by virtue of the powers conferred upon them by section 15 of the Criminal Appeal (Scotland) Act 1926(a) and section 76 of the Summary Jurisdiction (Scotland) Act 1954(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 (Suspension of Disqualification from Driving pending Appeal) 1975 and shall come into operation on the 1st May 1975.

2. The Act of Adjournal relative to the Criminal Appeal (Scotland) Act 1926(c) shall be amended by inserting between the words “disqualification” and “forfeiture” occurring in the second line of sub-section (a) of section 7 the words “(except an order of disqualification imposed under the provisions of section 93 of the Road Traffic Act 1972(d) as amended)”.

3. (a) An application made to the High Court of Justiciary in terms of section 94B(2) of the Road Traffic Act 1972 as amended (hereinafter referred to as “the said Act”) for suspension of an order of disqualification in any appeal taken under the provisions of section 62 of the Summary Jurisdiction (Scotland) Act 1954 shall be by Note as nearly as may be in terms of Form 1 in the Schedule annexed hereto.

(b) No such application shall be received by the High Court unless or until application for suspension under the provision of section 94(3) of the said Act shall have been made to and disposed of by the court of first instance.

(c) An application in terms of sub-section (a) of this section shall be lodged by the appellant or his solicitor with the Clerk of Justiciary. Notification thereof shall also be made by the appellant or his solicitor to the Respondent and to the Clerk of the court of first instance who, upon receipt of said notification, shall forthwith transmit to the Clerk of Justiciary a certified copy of the complaint and record of proceedings.

(d) When the High Court of Justiciary has disposed of such an application the Clerk of Justiciary shall send to the Clerk of the court of first instance a certified copy of the interlocutor pronounced and shall, if the High Court suspends the order of disqualification, make the intimation prescribed by section 94B(3) of the said Act.

(a) 1926 c. 15.

(b) 1954 c. 48.

(c) S.R. & O. 1926, 1373 (Rev. XI, p. 532; 1926 p. 709).

(d) 1972 c. 20.

(e) When the appeal shall finally have been disposed of by the High Court, the Clerk of Justiciary shall send to the Clerk of the court of first instance a certified copy of the interlocutor pronounced therein and it shall be the duty of the Clerk of the court of first instance, on receipt of such certified copy to take such action as to the execution of endorsement of the driving licence and intimation of the order of disqualification as may be appropriate.

4. (a) When appeal by means of suspension is taken to the High Court of Justiciary and the complainer desires to request that Court to exercise the powers of suspension conferred by section 94B(2) of the said Act, it shall be sufficient to insert in the prayer of the Bill a conclusion for interim suspension in conformity with existing law and practice.

(b) If the order of disqualification is suspended by the High Court in terms of said section 94B(2), no such order of suspension shall have effect until (i) the Bill shall have been served on the Respondent and the principal of the Bill and First Deliverance, together with an execution or acceptance of service, shall have been exhibited to the Clerk of the court of first instance, so that the said Clerk may endorse thereon a certificate of exhibition and (ii) the principal Bill, with the execution or acceptance of service and certificate of exhibition, shall have been returned to the Clerk of Justiciary by the appellant or his solicitor.

(c) The Clerk of the court of first instance shall, on exhibition to him of the Bill in terms of the immediately preceding sub-section, transmit to the Clerk of Justiciary the complaint and proceedings complained of, together with such information as will enable the Clerk of Justiciary to comply with the provisions of sub-section (3) of section 94B of the said Act.

(d) When the appeal shall finally have been disposed of by the High Court, the Clerk of Justiciary shall send to the Clerk of the court of first instance a certified copy of the interlocutor pronounced therein and it shall be the duty of the Clerk of the court of first instance, on receipt of such certified copy to take such action as to the execution of endorsement of the driving licence and intimation of the order of disqualification as may be appropriate.

5. (a) An application made to the High Court of Justiciary in terms of section 94B(2) of the same Act for suspension of an order of disqualification in any matter to which the provisions of the Criminal Appeal (Scotland) Act 1926 apply shall be made by Note as nearly as may be in terms of Form 2 in the Schedule annexed hereto.

(b) No application in terms of the immediately preceding sub-section shall be received until (i) the appropriate Note of Appeal or Application for leave to appeal against conviction or Application for leave to appeal against sentence shall have been lodged with the Clerk of Justiciary, and (ii) if the court of trial and sentence or of sentence was a Sheriff Court, application for suspension of the order of disqualification shall have been made to, and disposed of by, that court in terms of section 94(3) of the said Act.

(c) An application in terms of sub-section (a) of this section shall be lodged with the Clerk of Justiciary, and the applicant or his solicitor shall thereafter send a copy thereof to the Crown Agent and, if the court of trial and sentence or of sentence was a Sheriff Court, to the Clerk of that court.

(d) When the High Court of Justiciary has disposed of such an application the Clerk of Justiciary shall send to the Clerk of the court of first instance a certified copy of the interlocutor pronounced and shall, if the High Court suspends the order of disqualification, make the intimation prescribed by section 94B(3) of the said Act.

(e) When the appeal shall finally have been disposed of by the High Court, the Clerk of Justiciary shall send to the Clerk of the court of first instance an intimation of disposal and it shall be the duty of the Clerk of the court of first instance, on receipt of such intimation, to take such action as to the execution and endorsement of driving licence and intimation of the order of disqualification as may be appropriate.

6. Notwithstanding any rule of law or practice to the contrary, it shall be competent to the High Court before disposing of any such application for suspension of an order of disqualification under the provisions of section 94B(2) of the said Act to cause intimation thereof to be given to the Respondent and to dispose of the case in like manner as an Appeal under section 5 of the Bail (Scotland) Act 1888(a) or section 11 of the Summary Jurisdiction (Scotland) Act 1954(b).

7. If any such application under section 94B(2) of the said Act is disposed of by a single judge of the High Court in terms of the provision of the foregoing section, such decision shall be final and not subject to review.

And the Lords appoint this Act of Adjournal to be recorded in the Books of Adjournal, and to be published in the Edinburgh Gazette.

*G.C. Emslie*  
I.P.D.

Edinburgh,  
18th March 1975.

---

(a) 1888 c. 36.

(b) 1954 c. 48.



## FORM II

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

THE PETITION OF  
presently

HUMBLY SHEWETH:

THAT on the                      day of                      19                      the Petitioner was convicted  
in the                      Court                      at                      of                      in  
and was *inter alia* ordered to be disqualified for a period of                      in  
terms of Section 93 of the Road Traffic Act 1972, as amended.

THAT on                      the Petitioner lodged with the Clerk of Justiciary a\*Note  
of Appeal/an Application for leave to Appeal against conviction/an Application for  
leave to Appeal against sentence in terms of the provisions of the Criminal Appeal  
(Scotland) Act, 1926.

†THAT an application for suspension of the said disqualification made in terms of  
section 94(3) of the said Act was refused by the said Sheriff Court on the                      day  
of                      19                      and that the Petitioner has served a copy of this  
Petition on the Clerk of the said Sheriff Court.

THAT the Petitioner has served a copy of this Petition on the Crown Agent.

May it therefore please your Lordships in  
terms of section 94B(2) of the Road  
Traffic Act 1972 as amended to suspend  
the said disqualification on such terms  
as your Lordships shall think fit.  
According to Justice &c.

Solicitor for Petitioner

\*Delete as applicable

†Sheriff Court case only

---

EXPLANATORY NOTE

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

This Act of Adjournal prescribes for both solemn and summary cases the  
form and procedure for application for the suspension of disqualification  
from driving.

SI 1975/473  
ISBN 0-11-050473-9



780110504735