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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 194**

**SHERIFF APPEAL COURT  
SHERIFF COURT**

**Act of Sederunt (Sheriff Appeal Court Rules 2015 and  
Sheriff Court Rules Amendment) (Miscellaneous) 2016**

<i>Made</i>	- - - -	<i>7th June 2016</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th June 2016</i>
<i>Coming into force</i>	- -	<i>7th July 2016</i>

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(1), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 104(1) of the Courts Reform (Scotland) Act 2014(2) and all other powers enabling it to do so.

**Citation and commencement, etc.**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Appeal Court Rules 2015 and Sheriff Court Rules Amendment) (Miscellaneous) 2016.

(2) It comes into force on 7th July 2016.

(3) A certified copy is to be inserted in the Books of Sederunt.

**Amendment of the Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988**

2.—(1) The Act of Sederunt (Proceedings in the Sheriff Court under the Debtors (Scotland) Act 1987) 1988(3) is amended in accordance with this paragraph.

(2) In rule 72(3)(b) (appeals)(4), for “the sheriff principal/Court of Session”, substitute “the Court of Session”.

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(1) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and by the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).  
(2) 2014 asp 18.  
(3) S.I. 1988/2013, last amended by S.S.I. 2015/419.  
(4) Rule 72(3) was amended by S.S.I. 2015/419.

### **Amendment of the Ordinary Cause Rules 1993**

- 3.—**(1) The Ordinary Cause Rules 1993(**5**) are amended in accordance with this paragraph.
- (2) For rule 11.8(1) (uplifting of productions from process), substitute—
- “(1) Where a party has lodged productions in a cause, that party must uplift the productions from process within the period specified in paragraph (1A).
- (1A) The period is within 14 days after—
- (a) the expiry of the period within which an appeal may be made following final determination of the cause, if no appeal is made; or
- (b) the date on which such an appeal is finally disposed of.”.
- (3) In rule 33A.21(6) (child welfare reporter)(**6**), for “child welfare officer” substitute “child welfare reporter”.

### **Amendment of the Act of Sederunt (Child Care and Maintenance Rules) 1997**

- 4.—**(1) The Act of Sederunt (Child Care and Maintenance Rules) 1997(**7**) is amended in accordance with this paragraph.
- (2) In rule 3.59 (appeals)(**8**), omit paragraph (8).

### **Amendment of the Small Claim Rules 2002**

- 5.—**(1) The Small Claim Rules 2002(**9**) are amended in accordance with this paragraph.
- (2) In rule 23.1(appeals)(**10**), for paragraph (9) substitute—
- “(9) After the sheriff has signed the stated case, the appeal is to proceed in accordance with Chapter 29 of the Act of Sederunt (Sheriff Appeal Court Rules) 2015(**11**).”.

### **Amendment of the Sheriff Court Adoption Rules 2009**

- 6.—**(1) The Sheriff Court Adoption Rules 2009(**12**) are amended in accordance with this paragraph.
- (2) In rule 39 (permanence orders: final procedure)(**13**)—
- (a) for paragraph (1), substitute—
- “(1) This rule applies where a permanence order is granted.
- (1A) The sheriff clerk must issue an extract of the order to the petitioner after—
- (a) the expiry of the period within which an appeal may be made, if no appeal is made; or
- (b) the appeal has been finally disposed of.

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(5) The Ordinary Cause Rules 1993 are in Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (c. 51). Schedule 1 was substituted by S.I. 1993/1956 and was last amended by S.S.I. 2016/102.

(6) Rule 33A.21 was substituted by S.S.I. 2016/102.

(7) S.I. 1997/291, last amended by S.S.I. 2015/424.

(8) Rule 3.59 was last amended by S.S.I. 2015/419.

(9) The Small Claim Rules 2002 are in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002 (S.S.I. 2002/133, last amended by S.S.I. 2015/419).

(10) Rule 23.1 was amended by S.S.I. 2015/419.

(11) S.S.I. 2015/356.

(12) The Sheriff Court Adoption Rules 2009 are in the Schedule to the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009 (S.S.I. 2009/284, last amended by S.S.I. 2015/419).

(13) Rule 39 was amended by S.S.I. 2013/172.

(1B) Where the court has also made an order under section 89(2) of the 2007 Act (revocation of compulsory supervision order on making of permanence order), the sheriff clerk must intimate the making of that order to the Principal Reporter.”;

(b) in paragraph (2), for “paragraph (1)” substitute “paragraphs (1A) and (1B)”.

### **Amendment of the Act of Sederunt (Sheriff Appeal Court Rules) 2015**

7.—(1) The Act of Sederunt (Sheriff Appeal Court Rules) 2015(14) is amended in accordance with this paragraph.

(2) In rule 6.2(2) (form of appeal)—

(a) after subparagraph (b) insert—

“(ba) have appended to it a copy of the interlocutor containing the decision appealed against.”;

(b) in subparagraph (f), omit “and dated”.

(3) In rule 6.7 (provisional orders: representations)—

(a) in paragraph (1), omit “to the Court”;

(b) after paragraph (2) insert—

“(2A) Paragraph (2B) applies where the procedural Appeal Sheriff varies the period of 14 days mentioned in rule 6.5(1)(b) in accordance with rule 6.5(2).

(2B) The procedural Appeal Sheriff may also vary the period of 14 days mentioned in paragraph (2)(b).”;

(c) in paragraph (5), for “the Court” substitute “the procedural Appeal Sheriff”.

(4) In rule 7.15 (transmission of sheriff court process), in each of paragraphs (1), (2), 4(a)(ii) and (5)(b) for “Court” substitute “procedural Appeal Sheriff”.

(5) In rule 29.2 (summary causes and small claims: transmission of appeal), for paragraph (1) substitute—

“(1) Within 4 days after the sheriff has signed the stated case, the sheriff clerk must—

(a) send the parties a copy of the stated case;

(b) transmit to the Clerk—

(i) the stated case;

(ii) all documents and productions in the case.”.

(6) In rule 29.3(1)(a) (transmission of appeal: time to pay direction), for “Form 22” substitute “Form 23”.

(7) In rule 30.2 (appeals under Part 15 of the Children’s Hearings (Scotland) Act 2011: transmission of appeal), for paragraph (1) substitute—

“(1) Within 4 days after the sheriff has signed the stated case, the sheriff clerk must—

(a) send the parties a copy of the stated case;

(b) transmit to the Clerk—

(i) the stated case;

(ii) all documents and productions in the case.”.

(8) In Schedule 1 (administrative provisions)(15)—

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(14) S.S.I. 2015/356, amended by S.S.I. 2015/419.

(15) Schedule 1 was amended by S.S.I. 2015/419.

- (a) in paragraph 1(3) (quorum of the Court)—
  - (i) before head (a), insert—
    - “(za) relieving a party from the consequences of a failure to comply with a provision in these Rules under rule 2.1(1);”;
  - (ii) after head (d), insert—
    - “(da) disposing of an application for an additional fee under rule 19.2(1), where the order allowing expenses was made by one Appeal Sheriff;
    - (db) disposing of an application for sanction for the employment of counsel, unless the application seeks sanction in respect of appearing at a hearing before more than one Appeal Sheriff;”;
  - (iii) after head (e), insert—
    - “(ea) disposing of a note of objections under rule 19.5(3), where the order allowing expenses was made by one Appeal Sheriff;”;
- (b) for paragraph 4(1) (form of process), substitute—
  - “(1) A process must include the following steps of process—
    - (a) a minute of proceedings;
    - (b) an inventory of process.”.

(9) For Schedule 2 (forms)(**16**), substitute the Schedule set out in the Schedule to this Act of Sederunt.

**Amendment of the Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Sheriff Appeal Court) 2015**

**8.**—(1) The Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Sheriff Appeal Court) 2015(**17**) is amended in accordance with this paragraph.

(2) Paragraph 12(3)(a)(iv) (amendment of the Small Claim Rules 2002: appeals) is revoked.

**Amendment of the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Miscellaneous) 2016**

**9.**—(1) The Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Miscellaneous) 2016(**18**) is amended in accordance with this paragraph.

(2) In paragraph 5, for “21st March 2106” substitute “21st March 2016”.

Edinburgh  
7th June 2016

*CJM SUTHERLAND*  
Lord President  
I.P.D.

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(16) Schedule 2 was amended by [S.S.I. 2015/419](#).

(17) [S.S.I. 2015/419](#).

(18) [S.S.I. 2016/102](#).

SCHEDULE

Paragraph 7(9)

“SCHEDULE 2

Rule 1.5(1)

Forms

Form 4.3

Rule 4.3(4)(b)

**Statement of prospective lay representative for appellant or respondent**

IN THE SHERIFF APPEAL COURT

STATEMENT

by

PROSPECTIVE LAY REPRESENTATIVE FOR APPELLANT [*or* RESPONDENT]

in the appeal by [*or* against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or* by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

Name and address of prospective lay representative who requests to make oral submissions on behalf of party litigant:

Identify hearing(s) in respect of which permission for lay representation is sought:

The prospective lay representative declares that:

(a) I have no financial interest in the outcome of the case. [*or*

I have the following financial interest in the outcome of the case: (*state briefly the financial interest.*)]

(b) I am not receiving remuneration or other reward directly or indirectly from the litigant for my assistance and will not receive directly or indirectly such remuneration or other reward from the litigant.

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- (c) I accept that documents and information are provided to me by the litigant on a confidential basis and I undertake to keep them confidential.
- (d) I have no previous convictions. [*or*

I have the following convictions: (*list the convictions.*)]

- (e) I have not been declared a vexatious litigant under the Vexatious Actions (Scotland) Act 1898. [*or*

I was declared a vexatious litigant under the Vexatious Actions (Scotland) Act 1898 on (*date.*)]

[X.Y.], Prospective lay representative

## Form 6.2

Rule 6.2(1)

### Note of appeal

APPEAL

to

THE SHERIFF APPEAL COURT

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

1. The appellant appeals to the Sheriff Appeal Court against the decision of the sheriff at (*place*) (*specify nature of decision*) made on (*date*). The court reference number is (*insert court reference number*).

### GROUND(S) OF APPEAL

2. (*State briefly (in numbered paragraphs) the ground(s) of appeal.*)

### AVAILABILITY OF SHERIFF'S NOTE

3. The sheriff has provided a note setting out the reasons for the decision appealed against, and a copy is appended. [*or*
3. The appellant has requested that the sheriff write a note, but the note is not yet available][*or*
3. The sheriff has not provided a note setting out the reasons for the decision appealed against, and the appellant requests that the sheriff write a note.][*or*
3. The sheriff has not provided a note setting out the reasons for the decision appealed against. The appellant considers that the appeal is sufficiently urgent that the Sheriff Appeal Court should hear and determine the appeal without the sheriff's note. (*State briefly (in numbered paragraphs) why the appeal is sufficiently urgent to justify its determination without the sheriff's note.*)]

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INITIAL CASE MANAGEMENT: APPELLANT'S VIEWS

4. The appellant considers that the appeal should be appointed to the standard appeal procedure [or the accelerated appeal procedure] because:

*(state briefly (in numbered paragraphs) why the appellant considers that the appeal should be appointed to that procedure, taking into account the matters mentioned in rule 6.6(3).)*

IN RESPECT WHEREOF

[A.B.] [or [C.D.]], Appellant

[or [X.Y.], Solicitor for Appellant

*(insert business address of solicitor)*



## Form 6.5

Rules 6.5(4), 14.4(2), 15.3(4) and 17.3(5)

### **Certificate of intimation**

IN THE SHERIFF APPEAL COURT

CERTIFICATE OF INTIMATION

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or RESPONDENT*]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or APPELLANT*]

1. I certify that I gave intimation of (*specify document or other matter to be intimated*) to (*insert name of receiving party*).
2. Intimation was given by (*specify method of intimation authorised by rule 5.3*).
3. Intimation was given on (*insert date*).

[A.B.] [*or* [C.D.]], Appellant [*or* Respondent]

[*or* [X.Y.], Solicitor for Appellant [*or* Respondent]

[*or* [P.Q.], Sheriff Officer]

(*insert business address of solicitor or sheriff officer*)

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## Form 6.7

Rule 6.7(2)(a)

### Representations about a provisional procedural order

IN THE SHERIFF APPEAL COURT

REPRESENTATIONS

by

[A.B.] [or [C.D.]] (*designation and address*)

RESPONDENT

in the appeal by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

1. On (*date*) the Sheriff Appeal Court made a provisional procedural order under rule 6.6(1) of the Act of Sederunt (Sheriff Appeal Court Rules) 2015.
2. The respondent is a person to whom the provisional procedural order was intimated.
3. The respondent wishes to make the following representations:  
(*state briefly (in numbered paragraphs) the representations.*)

[A.B.] [or [C.D.]], Respondent  
[or [X.Y.], Solicitor for Respondent  
(*insert business address of solicitor*)]

## Form 7.2

Rules 7.2(1), 7.6(5)(a) and (6)(b)

### Timetable in appeal

IN THE SHERIFF APPEAL COURT

TIMETABLE IN APPEAL

by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

Date of issue of timetable: (*date*)

[This is a revised timetable issued under rule 7.6(5)(a) [or rule 7.6(6)(b)] which replaces the timetable issued on (*date*).]

1. The respondent may lodge grounds of appeal under rule 7.3(1) not later than (*date*).  
**Note:** if grounds of appeal are lodged, the appellant may lodge answers within 28 days after the grounds are intimated, in accordance with rule 7.3(2).
2. The respondent may refer a question of competency under rule 7.7(3) not later than (*date*).  
**Note:** if a reference is lodged, parties must lodge notes of argument under rule 7.7(5) within 14 days after the date on which the reference is lodged.
3. The appellant must lodge the appeal print under rule 7.9(1) not later than (*date*).
4. The appellant must lodge the appendix to the appeal print under rule 7.10(1) not later than (*date*).
5. If the appellant does not consider that it is necessary to lodge an appendix to the appeal print, the appellant must lodge written notice under rule 7.11(1) not later than (*date*).
6. The parties must lodge notes of argument under rule 7.12(1) not later than (*date*).
7. The parties must lodge estimates of the duration of any appeal hearing required to dispose of the appeal under rule 7.13 not later than (*date*).
8. A procedural hearing will take place at (*place*) on (*date and time*).

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## Form 7.3

Rule 7.3(1)

### Grounds of appeal in cross-appeal

IN THE SHERIFF APPEAL COURT

GROUND<sup>s</sup> OF APPEAL FOR RESPONDENT

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or RESPONDENT*]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or APPELLANT*]

1. The appellant has appealed to the Sheriff Appeal Court against the decision of the sheriff at (*place*) to (*specify nature of decision*) made on (*date*).
2. The respondent appeals against the decision of the sheriff at (*place*) to (*specify nature of decision*) made on (*date*). [*or*
2. The respondent challenges the grounds on which the sheriff made the decision against which the appellant has appealed.]
3. (*State briefly (in numbered paragraphs) the ground(s) of appeal.*)

[A.B.] [*or* [C.D.]], Respondent

[*or* [X.Y.], Solicitor for Respondent

(*insert business address of solicitor*)]

## Form 7.7

Rule 7.7(2)

### Reference of question about competency of appeal

IN THE SHERIFF APPEAL COURT

REFERENCE OF QUESTION ABOUT COMPETENCY OF APPEAL

by

[A.B.] [or [C.D.]] (*designation and address*)

RESPONDENT

in the appeal by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

1. The respondent refers the following question about the competency of the appeal to the procedural Appeal Sheriff:

*(state briefly (in numbered paragraphs) the question(s) about the competency of the appeal.)*

2. *(State briefly (in numbered paragraphs) the grounds for referring the question(s).)*

[A.B.] [or [C.D.]], Respondent  
[or [X.Y.], Solicitor for Respondent  
*(insert business address of solicitor)*

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## Form 7.13

Rule 7.13

### Certificate of estimate of duration of appeal hearing

IN THE SHERIFF APPEAL COURT

CERTIFICATE OF ESTIMATE OF DURATION OF APPEAL HEARING

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

I, (*name and designation*) certify that the likely duration of an appeal hearing in this appeal is (*state estimated duration*).

[A.B.] [*or* [C.D.]], Appellant [*or*  
Respondent]  
[*or* [X.Y.], Solicitor for Appellant [*or*  
Respondent]  
(*insert business address of solicitor*)]

## Form 11.2

Rule 11.2(1)

### **Form of application for permission to appeal to the Court of Session**

IN THE SHERIFF APPEAL COURT

APPLICATION

for

PERMISSION TO APPEAL TO THE COURT OF SESSION

under section 113 of the Courts Reform (Scotland) Act 2014

by

[A.B.] (*designation and address*)

APPLICANT

against

A DECISION OF THE SHERIFF APPEAL COURT

1. On (*date*) the Sheriff Appeal Court (*briefly describe decision in respect of which permission to appeal to the Court of Session is sought.*)

GROUNDS OF APPEAL

2. (*State briefly (in numbered paragraphs) the ground(s).*)

PERMISSION TO APPEAL

3. The appeal raises an important point of principle or practice because (*state briefly the reasons*). [*or*
3. The appeal does not raise an important point of principle or practice but there is some other compelling reason for the Court of Session to hear the appeal because (*state briefly the reasons*).]

[A.B.], Applicant

[*or* [X.Y.], Solicitor for Applicant

(*insert business address of solicitor*)

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## Form 13.1

Rules 13.1(1), 13.4(2), and 13.5(2)(a)

### **Form of motion by email**

### **IN THE SHERIFF APPEAL COURT**

### **Unopposed [*or* Opposed] motion**

**To: (email address of the Court)**

1 Case name:

2 Court ref number:

3 Is the case in court in the next 7 days?

4 Solicitors or party lodging motion:

(a) Reference:

(b) Telephone number:

(c) Email address:

5 Lodging motion on behalf of:



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6 Motion (in brief terms):

7 Submissions in support of motion (if required):

8 Date of lodging of motion:

9 Intimation made to:

(a) Provided email address(es):

(b) Additional email address(es) of fee-earner or other person(s) dealing with the case on behalf of a receiving party (if applicable):

10 Date intimations sent:

11 Opposition must be intimated to opponent not later than 1700 hours on:

12 Is motion opposed or unopposed?

13 Has consent to the motion been provided?

14 Document(s) intimated and lodged with motion:

**EXPLANATORY NOTE TO BE ADDED WHERE RECEIVING PARTY IS NOT LEGALLY REPRESENTED**

**OPPOSITION TO THE MOTION MAY BE MADE** by completing Form 13.2 (Form of opposition to motion by email) and intimating it to the party intending to lodge the motion (insert email address) on or before the last date for intimating opposition (see paragraph 11 above).

**IN THE EVENT OF A FORM OF OPPOSITION BEING INTIMATED**, the party intending to lodge the motion will lodge an opposed motion and the clerk of the Sheriff Appeal Court will assign a date, time and place for hearing parties on the motion. Intimation of this hearing will be sent to parties by the clerk.

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**IF NO NOTICE OF OPPOSITION IS LODGED, OR IF CONSENT TO THE MOTION IS INTIMATED TO THE PARTY INTENDING TO LODGE THE MOTION, the motion will be considered without the attendance of parties.**

**IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may also obtain advice from a Citizens Advice Bureau or other advice agency.**

## Form 13.2

Rules 13.2(1) and 13.5(2)(b)

### **Form of opposition to motion by email**

#### **IN THE SHERIFF APPEAL COURT**

#### **TO BE INTIMATED TO THE PARTY INTENDING TO LODGE THE MOTION**

- 1 Case name:
  
- 2 Court ref number:
  
- 3 Date of intimation of motion:
  
- 4 Date of intimation of opposition to motion:
  
- 5 Solicitors or party opposing motion:
  - (a) Reference:
  
  - (b) Telephone number:
  
  - (c) Email address:
  
- 6 Opposing motion on behalf of:

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7 Grounds of opposition:

8 Estimated duration of hearing:

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## Form 14.1

Rule 14.1(1)

### Form of motion

IN THE SHERIFF APPEAL COURT

MOTION FOR THE APPELLANT [*or* RESPONDENT]

in the appeal by [*or* against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or* by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

Date: (*insert date of intimation*)

1. The appellant (*or* respondent) moves the Court to (*insert details of the motion*).
2. (*State briefly (in numbered paragraphs) the grounds for the motion*).
3. The last date for lodging opposition to the motion is (*insert last date for lodging opposition*).
4. (Where a copy of a document accompanies the motion in accordance with rule 14.1(2), list the document(s) in question.)

[A.B.] [*or* [C.D.]], Appellant [*or* Respondent]

[*or* [X.Y.], Solicitor for Appellant [*or* Respondent]

(*insert business address of solicitor*)]

**EXPLANATORY NOTE TO BE INSERTED WHERE RECEIVING PARTY IS NOT LEGALLY REPRESENTED.**

**YOU MAY OPPOSE THE MOTION BY COMPLETING FORM 14.2 (Form of Opposition to Motion) and lodging it with the Clerk of the Sheriff Appeal Court.**

**You must do so on or before the last date for lodging opposition.**

**IF YOU OPPOSE THE MOTION, the Clerk will arrange a hearing. The Clerk will tell you the date, time and place for the hearing. You will have to attend the hearing or be represented at it.**

**IF YOU DO NOT OPPOSE THE MOTION, the Court may decide how to dispose of the motion without a hearing.**

**IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE, you should consult a solicitor. You may also obtain advice from a Citizens Advice Bureau or other advice agency.**

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## Form 14.2

Rule 14.2(1)

### **Form of opposition to motion**

IN THE SHERIFF APPEAL COURT

OPPOSITION BY APPELLANT [*or* RESPONDENT] TO MOTION

in the appeal by [*or* against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or* by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

Date of intimation of motion: (*insert date of intimation*)

Date of intimation of opposition to motion: (*insert date of intimation*)

1. The appellant (*or* respondent) opposes the motion by the respondent [*or* appellant].
2. (*State briefly (in numbered paragraphs) the grounds for opposing the motion.*)

[A.B.] [*or* [C.D.]], Appellant [*or*  
Respondent]

[*or* [X.Y.], Solicitor for Appellant [*or*  
Respondent]

(*insert business address of solicitor*)]

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## Form 17.3

Rule 17.3(1)(c)

### Notice of peremptory hearing

IN THE SHERIFF APPEAL COURT

NOTICE OF PEREMPTORY HEARING

in the appeal by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

1. The Court has been informed that your solicitor no longer represents you.
2. As a result, the Court has made an order that you should attend or be represented at a peremptory hearing at (*insert place*) on (*insert date and time*).
3. At the peremptory hearing, you will have to tell the Court whether you intend to continue with the appeal [or your answers to the appeal].

[A.B.] [or [C.D.]], Appellant [or Respondent]

[or [X.Y.], Solicitor for Appellant [or Respondent]

(*insert business address of solicitor*)]

**IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE, you should consult a solicitor. You may also obtain advice from a Citizens Advice Bureau or other advice agency.**

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## Form 20.2

Rule 20.2(1)

### **Devolution issue**

IN THE SHERIFF APPEAL COURT

DEVOLUTION ISSUE

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]  
against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

The appellant [*or respondent*] wishes to raise a devolution issue in this appeal.

(*State briefly (in numbered paragraphs) the following information—*

- (a) *the facts and circumstances and contentions on law on the basis of which it is alleged that the devolution issue arises;*
  
- (b) *details of the relevant law (including the relevant provisions of the Scotland Act 1998, the Northern Ireland Act 1998 or the Government of Wales Act 2006, as the case may be.)*

[A.B.] [*or* [C.D.]], Appellant [*or*  
Respondent]  
[*or* [X.Y.], Solicitor for Appellant [*or*  
Respondent]  
(*insert business address of solicitor*)]



## Form 21.3

Rule 21.3(2)

### Reference to the European Court

REQUEST

for

PRELIMINARY RULING

of

THE COURT OF JUSTICE OF THE EUROPEAN UNION

from

THE SHERIFF APPEAL COURT IN SCOTLAND

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

*(Set out a clear and succinct statement of the case giving rise to the request for the ruling of the European Court in order to enable the European Court to consider and understand the issues of EU law raised and to enable governments of Member States and other interested parties to submit observations. The statement of case should include:*

- (a) particulars of the parties;*
- (b) the history of the dispute between the parties;*
- (c) the history of the proceedings;*
- (d) the relevant facts as agreed by the parties or found by the court or, failing such agreement or finding, the contentions of the parties on such facts;*
- (e) the nature of the issues of law and fact between the parties;*
- (f) the Scots law, so far as it is relevant;*
- (g) the Treaty provisions or other acts, instruments or rules of EU law concerned; and*
- (h) an explanation of why the reference is being made.)*

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The preliminary ruling of the Court of Justice of the European Union is accordingly requested on the following questions:

*(State (in numbered paragraphs) the questions on which the ruling is sought.)*

Dated the *(day)* day of *(month and year)*.

Appeal Sheriff

## Form 22.2

Rule 22.2(1)

### **Application for leave to intervene by CEHR or SCHR**

IN THE SHERIFF APPEAL COURT

APPLICATION FOR LEAVE TO INTERVENE

by

THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS (“CEHR”)

[or THE SCOTTISH COMMISSION FOR HUMAN RIGHTS (“SCHR”)]

in the appeal by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

1. The CEHR [or SCHR] seeks leave to intervene in this appeal under section 30(1) of the Equality Act 2006 [or section 14(2) of the Scottish Commission for Human Rights Act 2006].
2. The CEHR considers that this appeal is relevant to a matter in connection with which it has a function because:  
(*state briefly (in numbered paragraphs) the reasons.*)
- [or 2. The SCHR considers that an issue arising in this appeal is relevant to its general duty and raises a matter of public interest because:  
(*state briefly (in numbered paragraphs) the reasons.*)]
3. The issue in this appeal which the CEHR [or SCHR] intends to address is:  
(*state briefly (in numbered paragraphs) the reasons.*)
4. The CEHR [or SCHR] intends to make the following submission if leave to intervene is granted:  
(*state briefly (in numbered paragraphs) a summary of the proposed submissions.*)

[X.Y.], Solicitor for CEHR [or SCHR]  
(*insert business address of solicitor*)

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## Form 22.4

Rule 22.4(1)

### **Invitation to the SCHR to intervene**

IN THE SHERIFF APPEAL COURT

INVITATION

to

THE SCOTTISH COMMISSION FOR HUMAN RIGHTS (“SCHR”)

TO INTERVENE

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or RESPONDENT*]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or APPELLANT*]

1. The Sheriff Appeal Court invites the SCHR to intervene in this appeal under section 14(2)(b) of the Scottish Commission for Human Rights Act 2006.
2. (*State briefly (in numbered paragraphs) the procedural history, facts and issues in the appeal.*)
3. The Court seeks a submission from the SCHR on the following issue:  
  
(*state briefly (in numbered paragraphs) the issue.*)

Appeal Sheriff

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 23.4–A

Rules 23.4(1) and 24.8(2)

### **Form of oath for witness**

I swear by Almighty God that I will tell the truth, the whole truth and nothing but the truth.

## Form 23.4–B

Rules 23.4(2) and 24.8(3)

### **Form of affirmation for witness**

I solemnly, sincerely and truly declare and affirm that I will tell the truth, the whole truth and nothing but the truth.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 24.2–A

Rule 24.2(1)

### Child witness notice

IN THE SHERIFF APPEAL COURT

CHILD WITNESS NOTICE

under section 12 of the Vulnerable Witnesses (Scotland) Act 2004

in the appeal by *[or against]*

*[A.B.] (designation and address)*

PURSUER and APPELLANT *[or RESPONDENT]*

against *[or by]*

*[C.D.] (designation and address)*

DEFENDER and RESPONDENT *[or APPELLANT]*

1. The applicant is the appellant *[or respondent]*.
2. The applicant has cited *[or intends to cite]* *[E.F.] (date of birth)* as a witness.
3. *[E.F.]* is a child witness under section 11 of the Vulnerable Witnesses (Scotland) Act 2004 *[and was under the age of eighteen on the date of the commencement of proceedings.]*
4. The applicant considers that the following special measure[s] is *[are]* the most appropriate for the purpose of taking the evidence of *[E.F.] [or that [E.F.] should give evidence without the benefit of any special measure]:*  
*(specify any special measure(s) sought).*
5. The reason[s] this *[these]* special measure[s] is *[are]* considered the most appropriate is *[are]* as follows:  
*(specify the reason(s) for the special measure(s) sought). [or*
5. The reason[s] it is considered that *[E.F.]* should give evidence without the benefit of any special measure is *[are]:*  
*(explain why it is felt that no special measures are required.)]*

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6. [E.F.] and the parent[s] of [*or* person[s] with parental responsibility for] [E.F.] has [have] expressed the following view[s] on the special measure[s] that is [are] considered most appropriate [*or* the appropriateness of [E.F.] giving evidence without the benefit of any special measure]:  
*(specify the view(s) expressed and how they were obtained).*
7. Other information considered relevant to this application is as follows:  
*(state briefly any other information relevant to the child witness notice).*
8. The applicant asks the Court to—
  - (a) consider this child witness notice; and
  - (b) make an order authorising the special measure[s] sought; [*or*
  - (b) make an order authorising the giving of evidence by [E.F.] without the benefit of special measures.]

[A.B.] [*or* [C.D.]], Applicant  
[*or* [X.Y.], Solicitor for Applicant  
*(insert business address of solicitor)*]

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 24.2–B

Rule 24.2(2)

### **Vulnerable witness application**

IN THE SHERIFF APPEAL COURT

VULNERABLE WITNESS APPLICATION

under section 12 of the Vulnerable Witnesses (Scotland) Act 2004

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

1. The applicant is the appellant [*or* respondent].
2. The applicant has cited [*or* intends to cite] [E.F.] (*date of birth*) as a witness.
3. The applicant considers the [E.F.] is a vulnerable witness under section 11(1)(b) of the Vulnerable Witnesses (Scotland) Act 2004 for the following reasons:  
  
(*specify why the witness is considered to be a vulnerable witness.*)
4. The applicant considers that the following special measure[s] is [are] the most appropriate for the purpose of taking the evidence of [E.F.]:  
  
(*specify any special measure(s) sought.*)
5. The reason[s] this [these] special measure[s] is [are] considered the most appropriate is [are] as follows:  
  
(*specify the reason(s) for the special measure(s) sought.*)
6. [E.F.] has expressed the following view[s] on the special measure[s] that is [are] considered most appropriate:  
  
(*specify the view(s) expressed and how they were obtained.*)



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

7. Other information considered relevant to this application is as follows:  
  
*(state briefly any other information relevant to the vulnerable witness application.)*
8. The applicant asks the Court to—
  - (a) consider this vulnerable witness application; and
  - (b) make an order authorising the special measure[s] sought.

[A.B.] [or [C.D.]], Applicant  
[or [X.Y.], Solicitor for Applicant  
*(insert business address of solicitor)*]

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## Form 24.2–C

Rule 24.2(3)(a)

### **Application for review of arrangements for vulnerable witness**

IN THE SHERIFF APPEAL COURT

APPLICATION FOR REVIEW OF ARRANGEMENTS FOR VULNERABLE WITNESSES

under section 13 of the Vulnerable Witnesses (Scotland) Act 2004

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or RESPONDENT*]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or APPELLANT*]

1. The applicant is the appellant [*or respondent*].
2. A proof [*or hearing*] is fixed for (*date*) at (*time*).
3. [E.F.] is a witness who is to give evidence at, or for the purposes of, the proof [*or hearing*]. [E.F.] is a child witness [*or vulnerable witness*] under section 11 of the Vulnerable Witnesses (Scotland) Act 2004.
4. The current arrangements for taking the evidence of [E.F.] are (*specify the current arrangements*).
5. The current arrangements should be reviewed because (*specify reasons for review*).
6. [E.F.] [and the parent[s] of [*or person[s] with parental responsibility for*] [E.F.]] has [have] expressed the following view[s] on [the special measure[s] that is [are] considered most appropriate] [*or the appropriateness of [E.F.] giving evidence without the benefit of any special measure*]:  

*(specify the view(s) expressed and how they were obtained.)*
7. The applicant seeks (*specify the order sought*).

[A.B.] [*or [C.D.]*], Applicant

[*or [X.Y.]*], Solicitor for Applicant

*(insert business address of solicitor)*

## Form 26.3

Rule 26.3(3)(a)

### **Representations about a proposed order restricting the reporting of proceedings**

IN THE SHERIFF APPEAL COURT

REPRESENTATIONS

by

[A.B.] (*designation and address*)

APPLICANT

1. On (*date*) the Sheriff Appeal Court made an interim order under rule 26.2(1) of the Act of Sederunt (Sheriff Appeal Court Rules) 2015.
2. The applicant is a person who would be directly affected by an order restricting the reporting of proceedings because:  
  
*(state briefly (in numbered paragraphs) the reasons.)*
3. The applicant wishes to make the following representations:  
  
*(state briefly (in numbered paragraphs) the representations.)*
- [4. The applicant seeks an urgent hearing on these representations because:  
  
*(state briefly (in numbered paragraphs) why an urgent hearing is necessary.)]*

[A.B.], Applicant

[or [X.Y.], Solicitor for Applicant

*(insert business address of solicitor)]*

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## Form 26.5

Rule 26.5(2)

### **Application for variation or revocation of an order restricting the reporting of proceedings**

IN THE SHERIFF APPEAL COURT

APPLICATION

by

[A.B.] (*designation and address*)

APPLICANT

1. On (*date*) the Sheriff Appeal Court made an order restricting the reporting of proceedings in (*name of case (and court reference, if known)*).
2. The applicant seeks variation [*or revocation*] of the order because:  
  
(*state briefly (in numbered paragraphs) the reasons for the application.*)
- [3. The applicant seeks to vary the order by:  
  
(*state briefly (in numbered paragraphs) the proposed variation(s).*)]

[A.B.], Applicant

[*or* [X.Y.], Solicitor for Applicant

(*insert business address of solicitor*)]

## Form 28.2

Rule 28.2(1)

### Application for new trial

APPLICATION

to

THE SHERIFF APPEAL COURT

for

A NEW TRIAL

under section 69 of the Courts Reform (Scotland) Act 2014

by

[A.B.] (*designation and address*)

APPLICANT

[C.D.] (*designation and address*)

RESPONDENT

1. On (*date*), a jury trial was held before the Sheriff of Lothian and Borders at Edinburgh in the cause [A.B.] (*designation and address*), pursuer, against [C.D.] (*designation and address*), defender. The court reference number is (*insert court reference number*).
2. The verdict of the jury was (*state the verdict returned in accordance with section 68 of the Courts Reform (Scotland) Act 2014*).
3. The applicant applies to the Sheriff Appeal Court for a new trial under section 69(1) of the Court Reform (Scotland) Act 2014.

### GROUND(S) FOR APPLICATION

(*State briefly (in numbered paragraphs) the ground(s) for the application including references to section 69(2) of the Court Reform (Scotland) Act 2014.*)

IN RESPECT WHEREOF

[A.B.], Applicant

[*or* X.Y.], Solicitor for Applicant

(*insert business address of solicitor*)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 28.5

Rules 28.5(1), 28.6(6)(a) and (7)(b)

### **Timetable in application for new trial**

IN THE SHERIFF APPEAL COURT

TIMETABLE IN APPLICATION FOR NEW TRIAL

by

[A.B.] (*designation and address*)

APPLICANT

against

[C.D.] (*designation and address*)

RESPONDENT

Date of issue of timetable: (*date*)

[This is a revised timetable issued under rule 28.6(6)(a) [*or* rule 28.6(7)(b)] which replaces the timetable issued on (*date*).]

2. The respondent may refer a question of competency under rule 28.7(3) not later than (*date*).

**Note:** if a reference is lodged, parties must lodge notes of argument under rule 28.7(5) within 7 days after the date on which the reference is lodged.

4. The applicant must lodge the appendix to the print under rule 28.9(1) not later than (*date*).
5. If the applicant does not consider that it is necessary to lodge an appendix to the print, the applicant must lodge written notice under rule 28.10(1) not later than (*date*).
6. The parties must lodge notes of argument under rule 28.11(1) not later than (*date*).
7. The parties must lodge estimates of the duration of any hearing required to dispose of the application for a new trial under rule 28.12 not later than (*date*).
8. A procedural hearing will take place at (*place*) on (*date and time*).

## Form 28.7

Rule 28.7(2)

### Reference of question about competency of application for new trial

IN THE SHERIFF APPEAL COURT

REFERENCE OF QUESTION ABOUT COMPETENCY OF APPLICATION FOR NEW TRIAL

by

[C.D.] (*designation and address*)

RESPONDENT

in the appeal by

[A.B.] (*designation and address*)

APPLICANT

against

[C.D.] (*designation and address*)

RESPONDENT

1. The respondent refers the following question about the competency of the application for a new trial to the procedural Appeal Sheriff:

*(state briefly (in numbered paragraphs) the question(s) about the competency of the application for a new trial.)*

2. *(State briefly (in numbered paragraphs) the grounds for referring the question(s).)*

[C.D.], Respondent

[or [X.Y.], Solicitor for Respondent

*(insert business address of solicitor)*]

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 28.12

Rule 28.12

### Certificate of estimate of duration of hearing

IN THE SHERIFF APPEAL COURT

CERTIFICATE OF ESTIMATE OF DURATION OF HEARING

in the application for a new trial

[A.B.] (*designation and address*)

APPLICANT

[C.D.] (*designation and address*)

RESPONDENT

I, (*name and designation*) certify that the likely duration of a hearing to dispose of this application for a new trial is (*state estimated duration*).

[A.B.], Applicant [*or Respondent*]

[*or* [X.Y.], Solicitor for Applicant [*or Respondent*]

(*insert business address of solicitor*)]



## Form 28.14

Rule 28.14(2)

### Application to enter jury verdict

APPLICATION

to

THE SHERIFF APPEAL COURT

to

ENTER JURY VERDICT

under section 71(2) of the Courts Reform (Scotland) Act 2014

by

[A.B.] (*designation and address*)

APPLICANT

[C.D.] (*designation and address*)

RESPONDENT

1. On (*date*), a jury trial was held before the Sheriff of Lothian and Borders at Edinburgh in the cause [A.B.] (*designation and address*), pursuer, against [C.D.] (*designation and address*), defender. The court reference number is (*insert court reference number*).
2. The verdict of the jury was (*state the verdict returned in accordance with section 68 of the Courts Reform (Scotland) Act 2014*).
3. The applicant applies to the Sheriff Appeal Court for the verdict instead to be entered in the applicant's favour under section 71(2) of the Court Reform (Scotland) Act 2014.

#### GROUNDS FOR APPLICATION

(*State briefly (in numbered paragraphs) the ground(s) for the application.*)

IN RESPECT WHEREOF

[A.B.], Applicant

[*or* [X.Y.], Solicitor for Applicant

(*insert business address of solicitor*)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Form 29.6

Rule 29.6(2)

### **Application for certificate of suitability for appeal to the Court of Session**

IN THE SHERIFF APPEAL COURT

APPLICATION FOR CERTIFICATE OF SUITABILITY FOR APPEAL TO THE COURT OF SESSION

in the appeal by [*or against*]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [*or* RESPONDENT]

against [*or by*]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [*or* APPELLANT]

1. The appellant [*or* respondent] asks the Sheriff Appeal Court to certify that this appeal is suitable for appeal to the Court of Session under section 38(b) of the Sheriff Courts (Scotland) Act 1971.
2. The appellant [*or* respondent] considers that this appeal is suitable for appeal to the Court of Session because:

*(state briefly (in numbered paragraphs) the reasons).*

[A.B.] [*or* [C.D.]], Appellant [*or* Respondent]

[*or* [X.Y.], Solicitor for Appellant [*or* Respondent]

*(insert business address of solicitor)*

## Form 30.5

Rule 30.5(2)

### **Application for leave to appeal to the Court of Session**

IN THE SHERIFF APPEAL COURT

APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SESSION

under

SECTION 163(2) [or 164(2)] [or 165(2)] OF THE CHILDREN'S HEARINGS  
(SCOTLAND) ACT 2011

in the appeal by [or against]

[A.B.] (*designation and address*)

PURSUER and APPELLANT [or RESPONDENT]

against [or by]

[C.D.] (*designation and address*)

DEFENDER and RESPONDENT [or APPELLANT]

1. The appellant [or respondent] asks the Sheriff Appeal Court to grant leave to appeal to the Court of Session under section 163(2) [or 164(2)] [or 165(2)] of the Children's Hearings (Scotland) Act 2011.

#### GROUNDS OF APPEAL

2. (*State briefly (in numbered paragraphs) the point(s) of law or procedural irregularity on which the appeal is to proceed.*)

[A.B.] [or [C.D.]], Appellant [or  
Respondent]

[or [X.Y.], Solicitor for Appellant [or  
Respondent]

(*insert business address of solicitor*)]

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## EXPLANATORY NOTE

*(This note is not part of the Act of Sederunt)*

This Act of Sederunt amends the Act of Sederunt (Sheriff Appeal Court Rules) 2015 and various sheriff court rules, principally to address issues that have arisen since the Sheriff Appeal Court assumed its civil jurisdiction and competence on 1st January 2016.

Paragraph 7 makes a number of amendments to the Sheriff Appeal Court Rules 2015, principally to adjust the number of Appeal Sheriffs required to deal with various applications. It also substitutes the Forms to be used in that court to introduce a revised style of instance, as well as making other minor amendments.

Paragraphs 2(2), 4(2), 5(2) and 7(2) address issues arising from the Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Sheriff Appeal Court) 2015.

Paragraph 3(3) also corrects an error in rule 33A.21(6) of the Ordinary Cause Rules 1993 that was introduced by the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Miscellaneous) 2016, and paragraph 9(2) corrects an error in that instrument itself.

The Act of Sederunt comes into force on 7th July 2016.