
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 275

**Act of Sederunt (Rules of the Court of Session
Amendment No. 5) (Miscellaneous) 2012**

Lodging recordings of children

6.—(1) After Chapter 35A (Vulnerable Witnesses (Scotland) Act 2004)(1), insert—

“CHAPTER 35B

LODGING AUDIO OR AUDIO-VISUAL RECORDINGS OF CHILDREN

Interpretation

35B.1. In this Chapter, “child” means a person under the age of 16 on the date of commencement of the proceedings and “children” shall be construed accordingly.

Lodging an audio or audio-visual recording of a child

35B.2.—(1) Where a party seeks to lodge an audio or audio-visual recording of a child as a production, that party must—

- (a) ensure that the recording is in a format that can be heard or viewed by means of equipment available in court;
- (b) place the recording together with a copy of the relevant inventory of productions in sealed envelope marked with—
 - (i) the names of the parties to the court action;
 - (ii) the case reference number;
 - (iii) (where available) the date and time of commencement and of termination of the recording; and
 - (iv) the words “recording of a child – confidential”.

(2) The sealed envelope must be lodged with the Deputy Principal Clerk.

(3) In the remainder of this Chapter a “recording of a child” means any such recording lodged under this rule.

Separate inventory of productions

35B.3.—(1) On each occasion that a recording of a child is lodged, a separate inventory of productions shall be lodged in process.

(2) The Deputy Principal Clerk shall mark the date of receipt and the number of the process on the sealed envelope containing the recording.

Custody of a recording of a child

35B.4.—(1) A recording of a child—

- (a) shall be kept in the custody of the Deputy Principal Clerk; and
- (b) subject to rule 35B.5, will not form a borrowable part of the process.

(2) The envelope containing the audio or audio-visual recording of a child shall only be unsealed with the authority of the court and on such conditions as the court thinks fit (which conditions may relate to listening to or viewing the recording).

Access to a recording of a child

35B.5.—(1) An application by a party to gain access to and to listen to or view a recording of a child may be made by motion.

(2) The court may refuse such a motion or grant it on such conditions as the court thinks fit, including—

- (a) allowing only such persons as the court may specify to listen to or view the recording;
- (b) specifying the location where such listening or viewing is to take place;
- (c) specifying the date and time when such listening or viewing is to take place;
- (d) allowing a copy of the recording to be made (in the same or different format) and arrangements for the safe-keeping and disposal of such copy;
- (e) arrangements for the return of the recording and re-sealing of the envelope.

Exceptions

35B.6.—(1) The court may, on the application of a party and on cause shown, disapply the provisions of this Chapter.

(2) An application under paragraph (1) shall be made—

- (a) at the time of presenting the recording for lodging;
- (b) by letter addressed to the Deputy Principal Clerk stating the grounds on which the application is made.

Application of other rules

35B.7. The following rules do not apply to an audio or audio-visual recording of a child—

- (a) rule 4.5 (productions);
- (b) rule 4.11 (documents not to be borrowed); and
- (c) rule 4.12 (borrowing and returning documents).”.