
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 194

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

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(1) is amended in accordance with this paragraph.

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

Amendment of the Ordinary Cause Rules 1993

3.—(1) The Ordinary Cause Rules 1993(3) 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)(4), 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(5) is amended in accordance with this paragraph.

(2) In rule 3.59 (appeals)(6), omit paragraph (8).

(1) [S.I. 1988/2013](#), last amended by [S.S.I. 2015/419](#).

(2) Rule 72(3) was amended by [S.S.I. 2015/419](#).

(3) 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](#).

(4) Rule 33A.21 was substituted by [S.S.I. 2016/102](#).

(5) [S.I. 1997/291](#), last amended by [S.S.I. 2015/424](#).

(6) Rule 3.59 was last amended by [S.S.I. 2015/419](#).

Amendment of the Small Claim Rules 2002

- 5.—(1) The Small Claim Rules 2002(7) are amended in accordance with this paragraph.
- (2) In rule 23.1(appeals)(8), 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(9).”.

Amendment of the Sheriff Court Adoption Rules 2009

- 6.—(1) The Sheriff Court Adoption Rules 2009(10) are amended in accordance with this paragraph.
- (2) In rule 39 (permanence orders: final procedure)(11)—
- (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.
- (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(12) 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”.

(7) 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).

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

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

(10) 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).

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

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

(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)(**13**)—

(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)(**14**), substitute the Schedule set out in the Schedule to this Act of Sederunt.

(13) Schedule 1 was amended by [S.S.I. 2015/419](#).

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

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(15) 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(16) 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.

(15) S.S.I. 2015/419.
(16) S.S.I. 2016/102.