

2016 No. 384

COURT OF SESSION

SHERIFF COURT

**Act of Sederunt (Rules of the Court of Session 1994 and Sheriff
Court Rules Amendment) (No. 5) (Miscellaneous) 2016**

Made - - - - 23rd November 2016

Laid before the Scottish Parliament 25th November 2016

Coming into force - - 24th December 2016

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), 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 sections 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014(b) 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 (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 5) (Miscellaneous) 2016.

(2) It comes into force on 24th December 2016.

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

Amendment of the Rules of the Court of Session 1994

2.—(1) The Rules of the Court of Session 1994(c) are amended in accordance with this paragraph.

(2) In Rule 74.33 (applications in relation to disqualification orders or undertakings)(d)—

(a) after paragraph (a), insert—

“(aa) under section 5A of that Act (for disqualification for certain convictions abroad);”;

(b) after paragraph (ca), insert—

(a) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, schedule 1, paragraph 1(4).

(b) 2014 asp 18.

(c) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2016/319).

(d) Rule 74.33 was last amended by S.S.I. 2005/521.

- “(cb) under section 8ZB of that Act (for disqualification of person instructing unfit director of insolvent company);
 - (cc) under section 8ZD of that Act (for order disqualifying person instructing unfit director: other cases);”;
 - (c) after paragraph (d), insert—
 - “(da) under section 15A of that Act (for compensation orders);
 - (db) under section 15C of that Act (for variation and revocation of compensation undertakings);”;
 - (d) in paragraph (f), for “rule 4(2) of the Insolvent Companies (Reports on Conduct of Directors) (No. 2) (Scotland) Rules 1986 (application for direction to comply with requirements to furnish information etc.)”, substitute “rule 3(2) of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 2016(a) (application for order directing compliance with requirements to furnish information etc.)”.
- (3) After Chapter 74 (companies)(b), insert—

“CHAPTER 74A

ORDERS AGAINST INSOLVENCY PRACTITIONERS AND RECOGNISED PROFESSIONAL BODIES

Application and interpretation of this Chapter

74A.1.—(1) This Chapter applies to applications under the Insolvency Act 1986 for orders against persons who act as insolvency practitioners and against recognised professional bodies.

(2) In this Chapter—

“the Act of 1986” means the Insolvency Act 1986;

“act as insolvency practitioner” has the same meaning as in section 388 of the Act of 1986;

“recognised professional body” has the same meaning as in section 391 of the Act of 1986.

Applications

74A.2.—(1) An application—

(a) under section 391P of the Act of 1986 (application for, and power to make, direct sanctions order against a person acting as an insolvency practitioner); or

(b) under section 391T of the Act of 1986 (compliance order against a recognised professional body),

is made by petition.”.

(4) In the Appendix, in Form 37.2-A (form of jury precept)(c)—

(a) for “thirty six”, substitute “fifty”; and

(b) for “, Linlithgow and Haddington”, substitute “and Livingston”.

(a) S.I. 2016/185.

(b) Chapter 74 was last amended by S.S.I. 2016/318.

(c) Form 37.2-A was amended by S.I. 1996/1756.

Amendment of the Act of Sederunt (Company Directors Disqualification) 1986

3.—(1) The Act of Sederunt (Company Directors Disqualification) 1986^(a) is amended in accordance with this paragraph.

(2) In paragraph 4(1) (orders to furnish information or for inspection), for “rule 4(2) of the Insolvent Companies (Reports on Conduct of Directors) (No. 2) (Scotland) Rules 1986 (order to furnish information, etc.)”, substitute “rule 3(2) of the Insolvent Companies (Reports on Conduct of Directors) (Scotland) Rules 2016^(b) (application for order directing compliance with requirements to furnish information etc.)”.

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
23rd November 2016

(a) S.I. 1986/2296.
(b) S.I. 2016/185.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994 in consequence of amendments made by the Small Business, Enterprise and Employment Act 2015. Paragraph 2(2) inserts references to the new types of order available under the Company Directors Disqualification Act 1986, and paragraph 2(3) makes provision for orders under sections 391P and 391T of the Insolvency Act 1986.

Paragraph 2(4) amends the form of jury precept used in the Court of Session (Form 37.2-A) to increase the number of potential jurors cited from thirty six to fifty.

Paragraph 3 amends the Act of Sederunt (Company Directors Disqualification) 1986 to replace a redundant statutory reference.

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