

2017 No. 131

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session 1994
Amendment) (Vexatious Actions) 2017**

<i>Made</i>	- - - -	<i>26th April 2017</i>
<i>Laid before the Scottish Parliament</i>		<i>28th April 2017</i>
<i>Coming into force</i>	- -	<i>1st June 2017</i>

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 with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 103(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 Amendment) (Vexatious Actions) 2017.

(2) It comes into force on 1st June 2017.

(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) After rule 4.2 (signature of documents) 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 (asp 2), 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. 2017/130).

“Applications for leave under section 1 of the Vexatious Actions (Scotland) Act 1898

4.2ZA.—(1) This rule applies where a person (“the applicant”) who is the subject of an order under section 1 (power of Court of Session to prohibit institution of action without leave) of the Vexatious Actions (Scotland) Act 1898(a) seeks leave under that section to institute legal proceedings.

(2) The applicant must apply for leave by letter addressed to the Deputy Principal Clerk.

(3) The letter must—

- (a) state the full name and address of the applicant;
- (b) be accompanied by a copy of the document by which it is proposed to institute legal proceedings;
- (c) set out briefly why the applicant considers that leave should be granted;
- (d) set out details of any previous application for leave which relates to any extent to the same matter (including, in particular, the outcome of such applications).

(4) The Deputy Principal Clerk must—

- (a) in a case where the applicant has previously submitted an application for leave in relation to the same matter and that application has been refused, reject the application and notify the applicant accordingly;
- (b) otherwise, place the application before a Lord Ordinary.

(5) The Lord Ordinary may, without a hearing, make an order granting or refusing the leave sought.

(6) The interlocutor of the Lord Ordinary is to be sent to the applicant by letter at the address given in the application.

(7) An interlocutor of a Lord Ordinary granting leave to institute legal proceedings constitutes permission to proceed without a signature under rule 4.2(5) (signature of documents).”.

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
26th April 2017

(a) 1898 c. 35. The Vexatious Actions (Scotland) Act 1898 (“1898 Act”) was repealed by paragraph 27 of schedule 5 of the Courts Reform (Scotland) Act 2014 (“2014 Act”). Paragraph 27 of schedule 5 of the 2014 Act was given effect on 28th November 2014 by article 2 of the Courts Reform (Scotland) Act 2014 (Commencement No. 7, Transitional and Savings Provisions) Order 2016 (S.S.I. 2016/291). Article 4 of the Order made savings as regards the 1898 Act.

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 to set out the procedure which will apply when a person who is the subject of an order under section 1 (power of Court of Session to prohibit institution of action without leave) of the Vexatious Actions (Scotland) Act 1898 (“1898 Act”) seeks leave to institute legal proceedings. The 1898 Act was repealed with effect from 28th November 2016 by paragraph 27 of schedule 5 of the Courts Reform (Scotland) Act 2014. Article 4 of the Courts Reform (Scotland) Act 2014 (Commencement No. 7, Transitional and Saving Provisions) Order 2016 (S.S.I 2016/291) made savings as regards the 1898 Act and provides that orders made under the 1898 Act continue to have effect. The procedure set out in this Act of Sederunt will apply to persons subject to such orders. It is in similar terms to the procedure in Rule 4.2A of the Rules of the Court of Session 1994, which applies to an application for permission to institute civil proceedings by a person who is the subject of an order under section 100 (vexatious litigation orders) of the Courts Reform (Scotland) Act 2014.

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