

2017 No. 4

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session 1994
Amendment) (Leave to Appeal) 2017**

<i>Made</i>	- - - -	<i>10th January 2017</i>
<i>Laid before the Scottish Parliament</i>		<i>12th January 2017</i>
<i>Coming into force</i>	- -	<i>7th February 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.

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) (Leave to Appeal) 2017.

(2) It comes into force on 7th February 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) In the Appendix, in Form 40.2 (form of application for leave to appeal), for paragraph 4 substitute—

“4. *(in an appeal from an inferior court other than the Sheriff Appeal Court)*

That the grounds on which the applicant seeks leave to appeal to the Court of Session are as follows:— *(set out the grounds in numbered paragraphs).*

(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 to the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2016/384).

[*or*

4. (*in an appeal from the Sheriff Appeal Court*)

That the grounds on which the applicant seeks leave to appeal to the Court of Session are as follows:–

The appeal raises an important point of principle or practice because (*briefly state the reasons*).

[*or*

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 (*briefly state the reasons*).]]”

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
10th January 2017

EXPLANATORY NOTE

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

Section 113 of the Courts Reform (Scotland) Act 2014 provides that an appeal may be taken to the Court of Session against a decision of the Sheriff Appeal Court constituting final judgment in civil proceedings but only with the permission of the Sheriff Appeal Court or, if that court has refused permission, with the permission of the Court of Session. Section 113(2) sets a statutory test which must be met before permission can be granted. This Act of Sederunt amends Form 40.2 of the Rules of the Court of Session to direct applicants to that statutory test when making an application to the Court of Session for permission to appeal a decision of the Sheriff Appeal Court.

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