

1966 No. 1620 (S.129)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 5) 1966

Made - - - 20th December 1966

Coming into Operation 18th January 1967

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a), section 11 of the Adoption Act 1958(b), and section 54 of the Children and Young Persons Act 1963(c), and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

1. The Rules of Court(d) are hereby amended as follows:—

(1) By adding the following new sub-paragraphs at the end of Rule 221 paragraph (a):—

- “(xiii) Why the petitioner wishes to adopt the infant;
- (xiv) The petitioner’s religious persuasion, if any;
- (xv) The considerations arising from the difference in age between the petitioner and the infant if such difference is less than the normal difference in age between parents and their children;
- (xvi) Such other questions or matters, including an assessment of the petitioner’s personality and, where appropriate, that of the infant, as have a bearing on the mutual suitability of the petitioner and the infant for the relationship created by adoption, and on the ability of the petitioner to bring up the infant.”

(2) In Rule 230 paragraph (c) by deleting the words:—

“to an adopted child who has attained the age of seventeen years, and to whom such Order refers, or by authority of the Inner House obtained on petition and setting forth the reasons for which access to the process is required”,

and by substituting therefor:—

“(i) to an adopted child who has attained the age of seventeen years and to whom such Order refers, (ii) by authority of the Inner House obtained on a petition setting forth the reasons for which access to the process is required, and in particular by authority of the Inner House to another Court, a public authority or an administrative board (whether within the United Kingdom or not) having powers to authorise an adoption, which has in such petition requested that information be made available from the process for the purpose of the discharge of its duties in considering an application for adoption or provisional adoption, or (iii) to a person who is authorised in writing by the Secretary of State to obtain information from the process for the purposes of such research as is designed to improve the working of adoption law and practice.”

(3) By re-lettering paragraphs (e) and (f) of Rule 230 as (f) and (g) respectively, and adding a new paragraph (e) of Rule 230 as follows:—

(a) 1933 c. 41.
(c) 1963 c. 37.

(b) 7 Eliz. 2. c. 5.
(d) S.I. 1965/321 (1965 I, p. 803).

“(e) Any application under section 34 of the Act for leave to remove the infant from the care and possession of the petitioner, and any application under subsection 2 of section 35 of the Act for leave to give notice under subsection 1(b) of that section, shall be made by Note lodged in process. Such Note shall set forth the relevant facts and shall crave the remedy which the Noter seeks. The Court shall fix a date for a hearing on the Note and shall ordain the Noter to intimate the same by sending a notice in Form 38A together with a copy of the Note by registered post or by the recorded delivery service to the petitioner or petitioners, to the curator *ad litem*, to any person who may have care and possession of the infant, and to such other person or persons (if any) as the Court shall think proper. The Court may make such order as it shall think fit relating to the expenses of the Note and the procedure following thereon.”

(4) In Form 38 of the Appendix, by adding a new paragraph after the words “by counsel”, as follows:—

“And notice is further hereby given that the Court has been asked to dispense with your consent to the pronouncing of the (*state Adoption Order or Provisional Adoption Order as the case may be*) on the grounds that (*state grounds briefly, or delete sentence if not appropriate*).”

(5) By adding a new Form 38A immediately following Form 38 in the Appendix as follows:—

“FORM 38A

Form of Notice of Hearing of Note
IN PETITION

A.B. for Adoption Order adopting E.F.

Notice is hereby given that a hearing in this Petition, which hearing will be restricted to matters bearing upon the crave of the Note a copy of which is attached hereto, will take place in the Court of Session, Parliament Square, Edinburgh, on the day of 19 at o'clock when, if so advised, you may appear and be heard, personally or by counsel.

(*Address and date*)

Solicitor for Noter.”

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 5) 1966 and shall come into operation on 18th January 1967.

And the Lords appoint this Act of Sederunt to be entered in the Books of Sederunt.

J. L. Clyde,
I.P.D.

Edinburgh,
20th December 1966.

EXPLANATORY NOTE

(*This Note is not part of the Act of Sederunt.*)

This Act of Sederunt amends the Rules of Court by amplifying the procedure relating to adoption petitions.