

1972 No. 2022 (S.161)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 8) 1972

Made - - - - 19th December 1972

Coming into Operation 26th April 1973

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) and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

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

- (1) Rule 107 is hereby amended by the deletion of the word “Seventh” in line 3 thereof and by the substitution of the words “twenty-eighth”.
- (2) Rule 163 is hereby amended by the addition at the end thereof of a new paragraph (e):

“ (e) In any such undefended action or in any action defended only on amount of capital sum, periodical allowance or aliment, a statement bearing to be by a medical practitioner, signed by him and lodged in process, may be accepted by the Court as evidence of the facts and opinions which may be contained therein ”.

- (3) After Section 6 of Chapter V there shall be added a new section in the following terms:

“SECTION 6A”

“ Appendices ”

“ 294A Lodging of Appendix.

- (a) In any cause depending before the Inner House in which, in accordance with present practice it is requisite that an Appendix should be lodged, the prints of such Appendix shall be lodged not later than three months from the date of the interlocutor appointing the cause to the Summer Roll or Short Roll provided that within seven days of the date of such interlocutor the appellant may enrol for a sist of process and if, on cause shown, the Court or Vacation Judge grants such sist the running of said period of three months shall be postponed until the sist is recalled. An unopposed motion for the recall of such sist may in vacation be disposed of by the Vacation Judge.
- (b) If the prints of the Appendix are not lodged within the said period of three months or before the expiry of any prorogation of that period allowed by the Court, the appeal shall be held to have been abandoned and the appellant shall not be entitled to insist therein except upon being reponed as hereinafter provided.
- (c) At any time before the date on which said prints of the Appendix are due to be lodged the party due to lodge the same may enrol for prorogation of the time for lodging said prints. Such motion shall be put out in the Single Bills before one or other Division of the Inner House, or before the Vacation Judge (as the case may be), and shall only be granted upon cause shown and upon such conditions as shall seem just to the Court.

(a) 1933 c. 41.

(b) S.I. 1965/321 (1965, I, p. 803).

- (d) It shall be lawful for the appellant within seven days after the appeal has been held to be abandoned in accordance with paragraph (b) of this Rule to enrol a motion to be reponed. Such motion shall be put out in the Single Bills before one or other Division of the Inner House, or before the Vacation Judge (as the case may be) and shall only be granted on cause shewn, and upon such conditions as to payment of expenses to the respondent or otherwise, as shall seem just.
- (e) It shall be lawful for the respondent within seven days after the appeal has been held to be abandoned in accordance with paragraph (b) hereof to enrol a motion for leave to insist upon the appeal and the Court, when granting such motion, shall direct the respondent to lodge prints of the Appendix within such period as the Court thinks fit; in which case the appellant shall also be entitled to insist in the appeal; and the provisions regulating appeals by an appellant shall apply equally to appeals insisted in under this paragraph by the respondent.
- (f) On the expiry of the period of seven days after the appeal has been held to be abandoned as aforesaid, if the appellant shall not have been reponed, and if the respondent does not insist in the appeal, or on receipt by the Deputy Principal Clerk of a letter signed by the solicitors for all parties stating that the appellant has abandoned the appeal, the judgment or judgments complained of shall become final, and shall be treated in all respects as if no appeal had been taken against the same. In the case of appeals from the Outer House any party to the cause may enrol in the Single Bills to have the cause remitted back to the Outer House to proceed as accords; and in the case of other appeals the provisions of Rule of Court 272 (b) shall apply.
- (g) For the purposes only of this Rule the expression "Appeal" shall mean any proceedings in the Inner House for which it is requisite that an Appendix should be lodged, and the expression "Appellant" shall include reclamer.
- (4) Rule 347 Chapter I paragraph 5(a) is hereby amended by adding at the end thereof: "Note: Fees for one consultation with Counsel before the closing of the Record shall be allowed in party and party accounts".
- (5) Rule 347 Chapter III: Part IV 2 "Record Fee" is hereby amended by adding after the figures "21.00": "Note: If a preliminary consultation with Counsel is held before the closing of the Record, the solicitor shall be entitled to an additional fee of £10".

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 8) 1972, and shall come into operation on 26th April 1973.

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

G. C. Emslie,
I.P.D.

Edinburgh.

19th December 1972.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of Court by prescribing that productions must be lodged twenty-eight days before a Proof ; that a statement by medical practitioner in undefended or certain partially defended Consistorial causes may be accepted by the Court as evidence of the facts and opinions therein ; that prints of the Appendix in an Appeal shall be lodged within three months and that a Consultation with Counsel prior to the closing of the Record is allowable in expenses.

SI 1972/2022
ISBN 0-11-022022-6



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