

1973 No. 542 (S.41)

SHERIFF COURT, SCOTLAND**Act of Sederunt (Sheriff Court Procedure Amendment) 1973***Made* - - - 22nd March 1973*Coming into Operation* 3rd May 1973

The Lords of Council and Session under and by virtue of the powers conferred upon them by section 32 of the Sheriff Courts (Scotland) Act 1971(a) and of all other powers competent to them in that behalf do hereby enact and declare as follows:—

1. The Sheriff Courts (Scotland) Act 1907(b) as amended (hereinafter referred to as “the Act”) shall be further amended as follows:—

At the end of Rule 68 there shall be added the following

68(c)(i) Any application to the sheriff court for an order for the inspection, photographing, preservation, custody or detention of documents or other property (including, where appropriate, land) or for the production, recovery or the taking of samples thereof or the carrying out of any experiment thereon or therewith made in any civil proceedings which have been commenced before that court shall be made by Minute craving that the court should grant such an order and specifying the order sought. Upon such Minute being lodged, the Sheriff shall forthwith appoint the application to be heard at a diet to be fixed by him, and further, shall appoint intimation to other parties to the proceedings and to such other persons as appear to the sheriff to have an interest relevant to the application. After hearing parties, the Sheriff may either grant or refuse the order sought, in whole or in part, or as amended, and may order the applicant to find such caution for any loss, damage or expenses which may be incurred as a result of the application as the Sheriff thinks fit.

(ii) Any application to the sheriff court for such an order as is referred to in the immediately preceding paragraph, made where proceedings have not been commenced, by any person who appears to the court to be likely to be a party to or Minuter in proceedings which are likely to be brought, shall be made by Initial Writ under the Act served upon all persons who are likely to be parties to such proceedings when commenced, and such application shall be and shall be dealt with as a Summary Application within the meaning of said Act, provided that the Sheriff may make an order for such intimation to such other

(a) 1971 c. 58.

(b) 1907 c. 51.

persons as appear to the sheriff to have an interest relevant to the application, and may order the applicant to find such caution for any loss, damage or expenses which may be incurred as a result of the application as the Sheriff thinks fit.

(iii) Any party who has obtained an order in terms of either of the foregoing paragraphs shall serve by registered or recorded delivery letter a certified copy of the Interlocutor granting such order upon—

(1) (a) any other party or parties to the cause where the order was made following upon an application under paragraph 1 hereof; or

(b) any person upon whom service has been made, where the order was made following upon an application under paragraph 2 hereof; and

(2) such other persons to whom the sheriff has appointed intimation of the application to be made;

Provided that it shall not be necessary to serve such certified copy upon any person who was present or represented when the application was heard; and such order shall be obtempered by the party or parties to whom it is directed in the manner and within the time specified therein.”

2. This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Procedure Amendment) 1973 and shall come into operation on 3rd May 1973.

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

Edinburgh.

22nd March 1973.

G. C. Emslie,

I. P. D.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules in the Schedule to the Sheriff Courts (Scotland) Act 1907 by prescribing the procedure to be followed when an order for inspection of documents and other property etc is sought under the Administration of Justice (Scotland) Act 1972 (c.59).

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