
STATUTORY INSTRUMENTS

1992 No. 3256 (S.263)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Commissary Court Books) 1992

Made - - - - *17th December 1992*

Coming into force - - *11th January 1993*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971((1)), and of all other powers enabling them in that behalf, having approved, with modifications, draft rules submitted to them by the Sheriff Court Rules Council under section 34 of that Act, do hereby enact and declare:

Citation and Commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Commissary Court Books) 1992 and shall come into force on 11th January 1993.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Interpretation

2. In this Act of Sederunt—

“the commissary clerk” means the commissary clerk in Edinburgh.

The Commissary Court Books

3.—(1) The Commissary Court Books, together with any machinery or equipment incidental to their keeping, shall be kept by the commissary clerk at his office.

(2) Subject to sub-paragraph (3) of this paragraph the Commissary Court Books kept by the commissary clerk shall comprise—

- (a) a microfilm record of every writ received by the commissary clerk for recording; and
- (b) an index, recorded on computer disk, of every writ which has been recorded on microfilm.

(3) Any person may—

- (a) inspect any writ recorded in the Commissary Court Books; or

(1) 1971 c. 58; section 32 was amended by paragraph 12 of Schedule 2 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), and by section 2(4) of the Civil Evidence (Scotland) Act 1988 (c. 32); and was extended *inter alia* by section 97 of the Debtors (Scotland) Act 1987 (c. 18).

(b) obtain a copy of any such writ.

(4) In relation to writs recorded in the Commissary Court Books of the commissary clerk or the sheriff clerk prior to the commencement of this Act of Sederunt, such writs may be kept in the form in which they were recorded prior to the commencement of this Act of Sederunt, until the commissary clerk records them in the Commissary Court Books kept under sub-paragraph (2) of this paragraph.

Transmission for recording

4.—(1) The sheriff principal may authorise the sheriff clerk to send to the commissary clerk any part of the Commissary Court Books kept by the sheriff clerk prior to the commencement of this Act of Sederunt.

(2) The sheriff clerk shall, upon receipt of an authorisation under sub-paragraph (1) of this paragraph and with the consent of the commissary clerk, send to the commissary clerk any part of the Commissary Court Books kept by the sheriff clerk prior to the commencement of this Act of Sederunt.

(3) In relation to any writ which is to be recorded in the Commissary Court Books after the commencement of this Act of Sederunt, the sheriff clerk shall, upon issue of confirmation, send such writ to the commissary clerk.

Recording

5. The commissary clerk shall, upon receipt of a writ under paragraph 4 of this Act of Sederunt, record the writ in the Commissary Court Books kept by him under and in accordance with paragraph 3 of this Act of Sederunt.

Disposal of writs

6. The sheriff principal may authorise the commissary clerk to dispose of by destruction or otherwise, any writ which has been recorded by the commissary clerk under paragraph 5 of this Act of Sederunt.

Revocation

7. The Act of Sederunt (Introduction of a Photographic Process for Copying Deeds and other Writings presented for registration in the Sheriff Court Books and Commissary Court Books) 1944((2)) is revoked.

Edinburgh,
17th December 1992

J.A.D. Hope
Lord President, I.P.D.

EXPLANATORY NOTE

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

This Act of Sederunt provides for—

- (a) the keeping of the Commissary Court Books in a microfilm form with a computer index at a centralised location in the hands of the commissary clerk in Edinburgh, (paragraphs 3, 4, and 5);
- (b) the authorisation by the sheriff principal of and the subsequent transmission by the sheriff clerk of the existing Commissary Court Books to the commissary clerk, (paragraph 4);
- (c) the disposal of writs received by the commissary clerk from the sheriff clerk after they have been microfilmed and indexed, (paragraph 6);
- (d) the revocation of an Act of Sederunt which is unnecessary in the light of the Public Records (Scotland) Act 1937 and the advancement of photocopying technology, (paragraph 7).