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STATUTORY INSTRUMENTS

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**1997 No. 2533 (S. 166)**

**SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Judicial Factor  
Rules) (Amendment No. 2) 1997**

*Made* - - - - - *16th October 1997*

*Coming into force* - - - - - *1st November 1997*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Judicial Factors (Scotland) Act 1880(1) and section 32 of the Sheriff Courts (Scotland) Act 1971(2) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Judicial Factors Rules) (Amendment No. 2) 1997 and shall come into force on 1st November 1997.

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

**Amendment of Rules**

2. In rule 15(2A) (encroachment on capital) of the Act of Sederunt (Judicial Factors Rules) 1992(3), for the words “initial capital of the estate” there shall be substituted the words “capital value of the estate as at the date when application is first made under paragraph (1)”.

Edinburgh  
16th October 1997

*Rodger of Earlsferry*  
Lord President, IPD

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(1) 1880 c. 4.  
(2) 1971 c. 58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12, by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4) and by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2).  
(3) S.I.1992/272, amended by S.I. 1994/2354, 1996/2167 and 1997/206.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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## EXPLANATORY NOTE

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

Rule 15 of the Act of Sederunt (Judicial Factors Rules) 1992 enables a factor to make application to the Accountant of Court for permission to encroach on the capital of the estate where the income from the estate is insufficient for the maintenance of the ward. This Act of Sederunt amends that rule so that the Accountant of Court will be able to approve, without further procedure, such an application where the amount of encroachment does not exceed 5% of the capital value of the estate as at the date when an application under the rule is first made (rather than 5% of the “initial capital” of that estate).