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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 189**

**Act of Sederunt (Rules of the Court of Session  
Amendment No. 3) (Miscellaneous) 2012**

**Citation, commencement etc.**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 3) (Miscellaneous) 2012 and comes into force on 9th July 2012.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(3) In this Act of Sederunt, “the Rules” means the Rules of the Court of Session 1994<sup>(1)</sup>.

**Lay Representation**

2.—(1) The Rules are amended in accordance with the following subparagraphs.

(2) After Chapter 12A (lay support for party litigants) insert—

**“CHAPTER 12B**

**LAY REPRESENTATION**

**Application and interpretation**

**12B.1.**—(1) This Chapter is without prejudice to any enactment (including any other provision in these Rules) under which provision is, or may be, made for a party to a particular type of case before the court to be represented by a lay representative.

(2) In this Chapter, a “lay representative” means a person who is not—

(a) a solicitor;

(b) an advocate; or

(c) someone having a right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

**Lay representation for party litigants**

**12B.2.**—(1) In any cause depending before the court in respect of which no provision as mentioned in rule 12B.1 (is in force, a party litigant may apply to the court for permission for a named individual (a lay representative) to appear, along with the litigant, at a specified hearing for the purpose of making oral submissions on behalf of the litigant at that hearing.

(2) An application under paragraph (1) is to be made—

(a) by motion and accompanied by a document, signed by the litigant and the named individual, in Form 12B.2; and

(b) subject to paragraph (3), prior to the date of the hearing at which the litigant wishes the lay representative to make oral submissions.

(3) The court may grant an application made on the day of the hearing at which the litigant wishes the lay representative to make oral submissions if it is satisfied that there are exceptional reasons why the application could not have been made prior to that day.

(4) The court may grant an application under paragraph (1) only if it is of the opinion that it would assist the court to grant it.

(5) It is a condition of permission granted by the court that the lay representative does not receive directly or indirectly from the litigant any remuneration or other reward for his or her assistance.

(6) The court may grant permission under paragraph (1) in respect of one or more specified hearings in the cause; but such permission is not effective during any period when the litigant is legally represented.

(7) The court may, of its own accord or on the motion of a party to the proceedings, withdraw permission granted under paragraph (1).

(8) Where permission has been granted under paragraph (1), the litigant may—

(a) show the lay representative any document (including a court document); or

(b) impart to the lay representative any information,

which is in his or her possession in connection with the proceedings without being taken to contravene any prohibition or restriction on the disclosure of the document or the information; but the lay representative is then to be taken to be subject to any such prohibition or restriction as if he or she were the litigant.

(9) Any expenses incurred by the litigant in connection with lay representation under this rule are not recoverable expenses in the proceedings.

### **Confidentiality of documents in process**

**12B.3.** Rules 67.3 and 97.4 (confidentiality of documents in process) apply to an individual permitted to act as lay representative under this Chapter as they apply to a curator *ad litem* and reporting officer.”.

(3) At the appropriate place in the Appendix insert the form set out in the Schedule to this Act of Sederunt.

### **Revocation: permission to appeal against decisions of the Upper Tribunal**

**3.—**(1) Part XI of Chapter 41 of the Rules (appeals under the Tribunals, Courts and Enforcement Act 2007)(2) is revoked.

(2) Part XIV of Chapter 41 of the Rules (appeals under the Tribunals, Courts and Enforcement Act 2007) is revoked insofar as it applies by virtue of paragraph 4 of the Act of Sederunt (Rules of the Court of Session Amendment No. 5) (Causes in the Inner House) 2011(3).

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(2) Part XI of Chapter 41 was inserted by [S.S.I. 2011/303](#).

(3) Part XIV of Chapter 41 was inserted by [S.S.I. 2008/349](#). It was omitted by [S.S.I. 2011/303](#), but has continued to apply in relation to specified appeals under a transitional and savings provision in paragraph 4 of [S.S.I. 2011/303](#).

Edinburgh  
6th June 2012

*A.C. HAMILTON*  
Lord President  
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