
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 91

Act of Sederunt (Sheriff Court Rules) (Lay Representation) 2013

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Rules) (Lay Representation) 2013 and comes into force on 4th April 2013.

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

(3) In this Act of Sederunt—

“Ordinary Cause Rules” means the Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(1);

“Small Claim Rules” means the Small Claim Rules in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002(2);

“Summary Application Rules” means the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(3);

“Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(4).

Ordinary Cause Rules: lay representation

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

(2) After rule 1.4 (forms) insert—

“CHAPTER 1A

LAY REPRESENTATION

Application and interpretation

1A.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 sheriff to be represented by a lay representative.

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- (1) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445; S.S.I. 2000/239 and 408; 2001/8 and 144; 2002/7, 128 and 560; 2003/25, 26 and 601; 2004/197 and 350; 2005/20, 189, 638 and 648; 2006/198, 207, 293, 410 and 509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 284, 285, 294 and 402; 2010/120, 279, 324, 340 and 416; 2011/193, 289 and 386; and 2012/188, 221 and 271
- (2) S.S.I. 2002/133, amended by S.S.I. 2003/26; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; 2011/193; and 2012/271.
- (3) S.I. 1999/929, amended by S.S.I. 2000/148 and 387; 2001/142; 2002/7, 129, 130, 146 and 563; 2003/26, 27, 98, 261, 319, 346 and 556; 2004/197, 222, 334 and 455; 2005/61, 445, 473, 504 and 648; 2006/198, 410, 437 and 509; 2007/6, 233, 339, 440 and 463; 2008/9, 41, 111, 223, 335, 365 and 375; 2009/107, 109, 164, 294, 320 and 402; 2010/324, 340 and 416; 2011/193 and 386; and 2012/188 and 271.
- (4) S.S.I. 2002/132, amended by S.S.I. 2002/516; 2003/26 and 601; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; 2011/193 and 289; and 2012/144, 188 and 271.

- (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⁽⁵⁾.

Lay representation for party litigants

1A.2.—(1) In any proceedings in respect of which no provision as mentioned in rule 1A.1(1) is in force, the sheriff may, on the request of a party litigant, permit 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)—
- (a) is to be made orally on the date of the first hearing at which the litigant wishes a named individual to make oral submissions; and
 - (b) is to be accompanied by a document, signed by the named individual, in Form 1A.2.

(3) The sheriff may grant an application under paragraph (1) only if the sheriff is of the opinion that it would assist his or her consideration of the case to grant it.

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

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

(6) The sheriff may, of his or her own accord or on the motion of a party to the proceedings, withdraw permission granted under paragraph (1).

- (7) 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.

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

- (3) At the start of Appendix 1 insert the form set out in Schedule 1 to this Act of Sederunt.

Summary Application Rules: lay representation

3.—(1) The Summary Application Rules are amended in accordance with the following subparagraphs.

- (2) In rule 1.4 (application) before “Chapter 2” insert “Chapter 1A and”.
- (3) After rule 1.4 insert—

“CHAPTER 1A LAY REPRESENTATION

Application and interpretation

1A.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 sheriff 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

1A.2.—(1) In any proceedings in respect of which no provision as mentioned in rule 1A.1(1) is in force, the sheriff may, on the request of a party litigant, permit 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)—

- (a) is to be made orally on the date of the first hearing at which the litigant wishes a named individual to make oral submissions; and
- (b) is to be accompanied by a document, signed by the named individual, in Form A1.

(3) The sheriff may grant an application under paragraph (1) only if the sheriff is of the opinion that it would assist his or her consideration of the case to grant it.

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

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

(6) The sheriff may, of his or her own accord or on the motion of a party to the proceedings, withdraw permission granted under paragraph (1).

(7) 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.

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

(4) At the start of Schedule 1 insert the form set out in Schedule 2 to this Act of Sederunt.

Summary Cause Rules: lay representation

- 4.—(1) The Summary Cause Rules are amended in accordance with the following subparagraphs.
(2) After rule 2.2 (lay support)(6)insert—

“CHAPTER 2A LAY REPRESENTATION

Application and interpretation

2A.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 sheriff 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

2A.2.—(1) In any proceedings in respect of which no provision as mentioned in rule 2A.1(1) is in force, the sheriff may, on the request of a party litigant, permit 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)—
- (a) is to be made orally on the date of the first hearing at which the litigant wishes a named individual to make oral submissions; and
 - (b) is to be accompanied by a document, signed by the named individual, in Form A1.
- (3) The sheriff may grant an application under paragraph (1) only if the sheriff is of the opinion that it would assist his or her consideration of the case to grant it.
- (4) It is a condition of permission granted by the sheriff that the lay representative does not receive directly or indirectly from the litigant any remuneration or other reward for his or her assistance.
- (5) The sheriff may grant permission under paragraph (1) in respect of one or more specified hearings in the case; but such permission is not effective during any period when the litigant is legally represented.
- (6) The sheriff may, of his or her own accord or on the motion of a party to the proceedings, withdraw permission granted under paragraph (1).
- (7) 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;

(6) Rule 2.2 was inserted by [S.S.I. 2010/416](#).

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.

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

(3) At the start of Appendix 1 insert the form set out in Schedule 3 to this Act of Sederunt.

Small Claim Rules: lay representation

5.—(1) The Small Claim Rules are amended in accordance with the following subparagraphs.

(2) After Chapter 2 (representation) insert—

“CHAPTER 2A

LAY REPRESENTATION

Application and interpretation

2A.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 sheriff 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

2A.2.—(1) In any proceedings in respect of which no provision as mentioned in rule 2A.1(1) is in force, the sheriff may, on the request of a party litigant, permit 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)—

- (a) is to be made orally on the date of the first hearing at which the litigant wishes a named individual to make oral submissions; and
- (b) is to be accompanied by a document, signed by the named individual, in Form A1.

(3) The sheriff may grant an application under paragraph (1) only if the sheriff is of the opinion that it would assist his or her consideration of the case to grant it.

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

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

(6) The sheriff may, of his or her own accord or on the motion of a party to the proceedings, withdraw permission granted under paragraph (1).

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

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- (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.

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

- (3) At the start of Appendix 1 insert the form set out in Schedule 4 to this Act of Sederunt.

Edinburgh
5th March 2013

BRIAN GILL
Lord President
I.P.D.