
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 313

Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016

CHAPTER 4

REPRESENTATION AND SUPPORT

Representation and support

4.1.—(1) A natural person who is a party to proceedings may appear and act on the party's own behalf.

(2) A party who appears and acts on the party's own behalf is to be known as a party litigant.

(3) A party may be represented in any proceedings by—

(a) a legal representative (see rule 4.2); or

(b) an authorised person (see rule 4.3).

(4) A party who is a natural person may also be represented by a lay representative (see rule 4.4).

(5) A lay supporter (see rule 4.6) may assist a party litigant with the conduct of any proceedings.

Legal representation

4.2. A party is represented by a legal representative if that party is represented by an advocate or a solicitor.

Representation by authorised person

4.3.—(1) This rule applies where an enactment authorises a person to conduct proceedings in the sheriff court.

(2) A party is represented by an authorised person if that party is represented by a person who is authorised in accordance with such an enactment.

(3) An authorised person may do everything for the preparation and conduct of the proceedings that a party litigant may do, unless the enactment provides otherwise.

Lay representation

4.4.—(1) A party may apply to the sheriff for permission to be represented by a person who is not a legal representative or an authorised person, and such a person is to be known as a lay representative.

(2) The sheriff may grant an application only if the sheriff considers that it would assist the sheriff's consideration of the case to grant it.

(3) If the sheriff no longer considers that it would assist the sheriff's consideration of the case for a party to be represented by a lay representative, the sheriff may withdraw permission.

(4) A lay representative may represent a party at a specified hearing for the purpose of making oral submissions on behalf of the party.

(5) The party must appear along with the lay representative at any hearing where the lay representative is to make oral submissions.

(6) A party may show any document (including a court document) or communicate any information about the proceedings to that party's lay representative without contravening any prohibition or restriction on disclosure of the document or information.

(7) Where a document or information is disclosed under paragraph (6), the lay representative is subject to any prohibition or restriction on disclosure in the same way as the party is.

(8) A lay representative must not receive directly or indirectly from the party any remuneration or other reward for assisting the party.

Expenses

4.5.—(1) This rule applies where a party is represented by an authorised person or a lay representative.

(2) Despite that representation, the sheriff may award the party any expenses or outlays that the party would be entitled to by virtue of the Litigants in Person (Costs and Expenses) Act 1975(1).

Lay support

4.6.—(1) A party litigant may apply to the sheriff for permission for a named person to assist the party litigant in the conduct of proceedings, and such a person is to be known as a lay supporter.

(2) The sheriff may refuse an application only if the sheriff is of the opinion that—

- (a) the named person is an unsuitable person to act as a lay supporter; or
- (b) it would be contrary to the efficient administration of justice to grant it.

(3) The sheriff, if satisfied that it would be contrary to the efficient administration of justice for permission to continue, may withdraw permission.

(4) A lay supporter may assist a party by accompanying the party at hearings.

(5) A lay supporter may, if authorised by the party, assist the party by—

- (a) providing moral support;
- (b) helping to manage court documents and other papers;
- (c) taking notes of the proceedings;
- (d) quietly advising on—
 - (i) points of law and procedure;
 - (ii) issues which the party litigant might want to raise with the court.

(6) A party may show any document (including a court document) or communicate any information about the proceedings to that party's lay supporter without contravening any prohibition or restriction on disclosure of the document or information.

(7) Where a document or information is disclosed under paragraph (6), the lay supporter is subject to any prohibition or restriction on disclosure in the same way as the party is.

(8) A lay supporter must not receive directly or indirectly from the party any remuneration or other reward for assisting the party.

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