
EXPLANATORY NOTE

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

This Act of Sederunt amends the rules that apply to the appointment of curators *ad litem* to defenders in certain family actions. Paragraph 2 amends Chapters 33 and 33A of the Ordinary Cause Rules 1993. Paragraph 3 amends Chapter 49 of the Rules of the Court of Session 1994.

On appointment, the curator *ad litem* will be ordered to lodge in process a report, based on medical evidence, stating whether or not the defender is incapable of instructing a solicitor. A definition of “incapable” is inserted into the rules for this purpose.

This Act of Sederunt also places an obligation on the curator *ad litem* to periodically review whether there has been any change in the defender’s capacity, and to seek discharge from appointment where the defender is no longer incapable.