
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 468

Act of Sederunt (Sheriff Appeal Court Rules) 2021

PART 2

GENERAL PROVISIONS

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 that party's behalf.
- (2) That person 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) a lay representative (see rule 4.3).
- (4) A lay supporter (see rule 4.5) 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.

Lay representation: applications

- 4.3.**—(1) This rule does not apply where any other enactment makes provision for a party to a particular type of case to be represented by a lay representative.
- (2) A party is represented by a lay representative if that party is represented by a person who is not a legal representative.
- (3) A party litigant may apply to the Court for permission to be represented by a lay representative.
- (4) An application is to be—
- (a) made by motion;
 - (b) accompanied by a document in Form 4.3 signed by the prospective lay representative.
- (5) The Court may grant an application only if it considers that it would be in the interests of justice to do so.
- (6) Where the Court grants permission, it may—
- (a) do so in respect of one or more specified hearings;
 - (b) withdraw permission of its own accord or on the motion of any party.

Lay representation: functions, conditions and duties

4.4.—(1) A lay representative may represent a party at any hearing at which permission has been granted under rule 4.3 or where any other enactment makes provision for a party to be represented by a lay representative.

(2) The party must appear along with the lay representative at any hearing where the lay representative is to represent the party.

(3) Where permission is granted under rule 4.3, the lay representative may do anything in the preparation or conduct of the hearing that the party may do.

(4) 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 the disclosure of the document or information.

(5) Where a document or information is disclosed under paragraph (4), the lay representative is subject to any prohibition or restriction on the disclosure in the same way that the party is.

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

(7) Any expenses incurred by a party in connection with a lay representative are not recoverable expenses in the proceedings.

Lay support: applications

4.5.—(1) A party litigant may apply to the Court 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) An application is to be made by motion.

(3) The Court may refuse an application only if it is of the opinion that—

(a) the named person is an unsuitable person to act as a lay supporter (whether generally or in the proceedings concerned); or

(b) it would be contrary to the efficient administration of justice to grant it.

(4) The Court, if satisfied that it would be contrary to the efficient administration of justice for permission to continue, may withdraw permission—

(a) of its own accord; or

(b) on the motion of any party.

Lay support: functions, conditions and duties

4.6.—(1) A lay supporter may assist a party by accompanying the party at hearings in court or in chambers.

(2) 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 wish to raise with the Court.

(3) 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 the disclosure of the document or information.

(4) Where a document or information is disclosed under paragraph (3), the lay supporter is subject to any prohibition or restriction on the disclosure in the same way that the party is.

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

(6) Any expenses incurred by a party in connection with a lay supporter are not recoverable expenses in the proceedings.