

SCOTTISH STATUTORY INSTRUMENTS

**2021 No. 468**

**Act of Sederunt (Sheriff Appeal Court Rules) 2021**

**PART 5**

**INCIDENTAL PROCEDURE: STANDARD PROCEDURES**

**CHAPTER 16**

**MINUTES**

**Application of this Chapter**

**16.1.** This Chapter applies to any application to the Court that is made by minute, other than a joint minute, a minute of abandonment or a minute of amendment.

**Commencement Information**

**I1** Para. 16.1 in force at 6.1.2022, see [para. 1.1\(2\)](#)

**Form and lodging of minute**

**16.2.—(1)** A minute is to be made in Form 16.

**(2)** A minute must—

- (a)** specify the order sought from the Court;
- (b)** contain a statement of facts supporting the granting of that order;
- (c)** where appropriate, contain pleas-in-law.

**(3)** A minute is to be lodged in the process of the appeal to which it relates.

**Commencement Information**

**I2** Para. 16.2 in force at 6.1.2022, see [para. 1.1\(2\)](#)

**Orders for intimation and answers**

**16.3.—(1)** On the first available court day after being lodged, a minute must be brought before the procedural Appeal Sheriff for an order—

- (a)** for intimation, within 7 days after the date of the order, to—
  - (i)** every other party to the appeal;
  - (ii)** any other person who appears to have an interest in the minute;
- (b)** for any person to whom the minute is intimated to lodge answers, if so advised, within 14 days after the date of intimation;

- (c) fixing a hearing on the minute and any answers no sooner than 28 days after the date of the order.
- (2) The procedural Appeal Sheriff may vary the periods of 7 days, 14 days and 28 days mentioned in paragraph (1) either—
  - (a) of the procedural Appeal Sheriff’s own accord; or
  - (b) on cause shown, on the application of the applicant.
- (3) An application mentioned in paragraph (2)(b) must—
  - (a) be included in the minute;
  - (b) give reasons for varying the period.
- (4) Where a minute is intimated in accordance with an order under this rule, the applicant must lodge a certificate of intimation in Form 6.5-A within 14 days after the date of intimation.

**Commencement Information**

**I3** Para. 16.3 in force at 6.1.2022, see [para. 1.1\(2\)](#)

**Consent to minute**

- 16.4.**—(1) Where a person to whom a minute is intimated seeks to consent to the minute, that person may do so by lodging a notice to that effect.
- (2) Where every person to whom a minute is intimated consents to the minute, the procedural Appeal Sheriff is to determine the minute in chambers without the appearance of those persons, unless the procedural Appeal Sheriff otherwise determines.

**Commencement Information**

**I4** Para. 16.4 in force at 6.1.2022, see [para. 1.1\(2\)](#)

**Minutes of sist and transference**

- 16.5.**—(1) This rule applies where a party to an appeal (“P”) dies or comes under legal incapacity while the appeal is depending before the Court.
- (2) Any person who claims to represent P or P’s estate may apply to the Court by minute to be sisted as a party to the appeal.
- (3) If no person makes an application under paragraph (2), any other party may apply to the Court by minute to transfer the appeal in favour of or against (as the case may be) the person who represents P or P’s estate.
- (4) An application under paragraph (3) must be intimated to the person specified in the minute as representing P or P’s estate.

**Commencement Information**

**I5** Para. 16.5 in force at 6.1.2022, see [para. 1.1\(2\)](#)

### **Applications to enter process as respondent**

**16.6.**—(1) A person to whom the appeal has not been intimated may apply by minute for leave to enter the process as a party minuter and lodge answers.

(2) A minute under paragraph (1) must specify—

- (a) the applicant’s title and interest to enter the process;
- (b) the basis for the answers that the applicant proposes to lodge.

(3) At the hearing fixed under rule 16.3(1)(c), the procedural Appeal Sheriff must determine whether the applicant has shown title and interest to enter the process.

(4) If the procedural Appeal Sheriff is satisfied, the procedural Appeal Sheriff may grant the applicant leave to enter the process and lodge answers.

(5) Where leave is granted, the procedural Appeal Sheriff is to make such further order as the procedural Appeal Sheriff thinks fit.

(6) In particular, such an order may include an order—

- (a) varying any timetable;
- (b) as to the expenses of the application.

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#### **Commencement Information**

**16** Para. 16.6 in force at 6.1.2022, see [para. 1.1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Act of Sederunt (Sheriff Appeal Court Rules) 2021, CHAPTER 16.