
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 196

**COURT OF SESSION
SHERIFF APPEAL COURT
SHERIFF COURT**

**Act of Sederunt (Rules of the Court of Session
1994, Sheriff Appeal Court Rules and Sheriff
Court Rules Amendment) (Miscellaneous) 2023**

<i>Made</i>	- - - -	<i>27th June 2023</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>29th June 2023</i>
<i>Coming into force</i>	- -	<i>2nd October 2023</i>

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(1), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014(2) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Miscellaneous) 2023.

(2) It comes into force on 2nd October 2023.

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session 1994

2.—(1) The Rules of the Court of Session 1994(3) are amended in accordance with this paragraph.

(1) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and by the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).

(2) 2014 asp 18.

(3) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by S.S.I. 2023/168.

(2) In Chapter 102 (reporting restrictions)(4), after rule 102.1 (interpretation and application of this Chapter) insert—

“Application for an order

102.1A.—(1) A party to the proceedings may apply to the court for an order under this Chapter to restrict the reporting of the proceedings.

(2) An application for an order under this Chapter must be made by motion and be accompanied by Form 102.1A.”.

(3) In the appendix (forms)(5), after Form 97.12 (form of intimation of hearing of application for a parental order under section 54 or 54A of the Human Fertilisation and Embryology Act 2008)(6) insert Form 102.1A (form of application for an order restricting the reporting of proceedings) as set out in schedule 1 of this Act of Sederunt.

Amendment of the Sheriff Appeal Court Rules 2021

3.—(1) The Act of Sederunt (Sheriff Appeal Court Rules) 2021(7) is amended in accordance with this paragraph.

(2) In Chapter 28 (reporting restrictions), after rule 28.1 (application and interpretation of this Chapter) insert—

“Application for an order

28.1A.—(1) A party to the proceedings may apply to the court for an order under this Chapter to restrict the reporting of the proceedings.

(2) An application for an order under this Chapter must be made by motion and be accompanied by Form 28.1A.”.

(3) In schedule 2 (forms), after Form 26.2-C (application for review of arrangements for vulnerable witnesses) insert Form 28.1A (form of application for an order restricting the reporting of proceedings) as set out in schedule 2 of this Act of Sederunt.

Amendment of the Sheriff Appeal Court Rules 2015

4.—(1) The Act of Sederunt (Sheriff Appeal Court Rules) 2015(8), as saved by the Act of Sederunt (Sheriff Appeal Court Rules) 2021, is amended in accordance with this paragraph.

(2) In Chapter 26 (reporting restrictions)(9), after rule 26.1 (interpretation and application of this Chapter) insert—

“Application for an order

26.1A.—(1) A party to the proceedings may apply to the court for an order under this Chapter to restrict the reporting of the proceedings.

(2) An application for an order under this Chapter must be made by motion and be accompanied by Form 26.1A.”.

(4) Chapter 102 was inserted by [S.S.I. 2011/385](#), substituted by [S.S.I. 2015/85](#) and last amended by [S.S.I. 2020/28](#).

(5) The appendix (forms) was last amended by [S.S.I. 2022/329](#).

(6) Form 97.12 was inserted by [S.S.I. 2010/136](#).

(7) [S.S.I. 2021/468](#) was amended by [S.S.I. 2022/135](#).

(8) [S.S.I. 2015/356](#), revoked with savings by [S.S.I. 2021/468](#) and last amended by [S.S.I. 2022/135](#).

(9) Chapter 26 was last amended by [S.S.I. 2020/28](#).

(3) In schedule 2 (forms)(10), after Form 24.2-C (application for review of arrangements for vulnerable witnesses) insert Form 26.1A (form of application for an order restricting the reporting of proceedings) as set out in schedule 3 of this Act of Sederunt.

Amendment of the Ordinary Cause Rules 1993

5.—(1) The Ordinary Cause Rules 1993(11) are amended in accordance with this paragraph.

(2) In Chapter 48 (reporting restrictions)(12), after rule 48.1 (interpretation and application of this Chapter) insert—

“Application for an order

48.1A.—(1) A party to the proceedings may apply to the court for an order under this Chapter to restrict the reporting of the proceedings.

(2) An application for an order under this Chapter must be made by motion and be accompanied by Form 48.1A.”

(3) In Appendix 1 (forms), after Form OFT1 (form of notice of intimation to the Office of Fair Trading)(13) insert Form 48.1A (form of application for an order restricting the reporting of proceedings) as set out in schedule 4 of this Act of Sederunt.

Amendment of the Summary Application Rules

6.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(14) is amended in accordance with this paragraph.

(2) In Chapter 3 (rules on applications under specific statutes)—

(a) in Part XLI (reporting restrictions)(15), after rule 3.41.1 (interpretation and application of this Part) insert—

“Application for an order

3.41.1A.—(1) A party to the proceedings may apply to the court for an order under this Part to restrict the reporting of the proceedings.

(2) An application for an order under this Part must be made by motion and be accompanied by Form 58A.”;

(b) in Part LIV (sexual harm prevention orders and sexual risk orders)(16), in rule 3.54.4(6) (variation, renewal or discharge or sexual harm prevention orders or sexual risk orders) for “paragraph (4)(b)” substitute “paragraph (4)(c)”.

(3) In schedule 1 (forms), after Form 58 (form of order for disposal of a body)(17) insert Form 58A (form of application for an order restricting the reporting of proceedings) as set out in schedule 5 of this Act of Sederunt.

(10) The appendix (forms) was last amended by S.S.I. 2021/452.

(11) The Ordinary Cause Rules 1993 are in schedule 1 of the Sheriff Courts (Scotland) Act 1907 (c. 51). Schedule 1 was substituted by S.I. 1993/1956 and last amended by S.S.I. 2022/329.

(12) Chapter 48 was inserted by S.S.I. 2011/386, substituted by S.S.I. 2015/85 and amended by S.S.I. 2020/28.

(13) Form OFT1 was inserted by S.S.I. 2006/293 and amended by S.S.I. 2012/271.

(14) S.I. 1999/929, last amended by S.S.I. 2023/62.

(15) Part XLI was inserted by S.S.I. 2011/386, substituted by S.S.I. 2015/85 and amended by S.S.I. 2020/28.

(16) Part LIV was inserted by S.S.I. 2023/62.

(17) Form 58 was inserted by S.S.I. 2009/320.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Edinburgh
27th June 2023

CJM SUTHERLAND
Lord President
I.P.D.

SCHEDULE 1

Paragraph 2(3)

Rule 102.1A(2)

Form 102.1A

Form of application for an order restricting the reporting of proceedings

(Cause reference number (insert))

IN THE COURT OF SESSION

APPLICATION

For

AN ORDER RESTRICTING THE REPORTING OF PROCEEDINGS

in the cause

[A.B.] *(designation and address)*

Pursuer *[or Petitioner]*

Against

[C.D.] *(designation and address)*

Defender *[or Respondent]*

1. The applicant is the Pursuer *[or Petitioner]* or Defender *[or Respondent]*.
2. The applicant considers that it is necessary for the court to make an order restricting the reporting of proceedings in the cause of [A.B.] *(designation and address)* against [C.D.] *(designation and address)* because:

(state briefly in numbered paragraphs the reasons which, where applicable, should include the following information:

- (a) details of any person (including their designation and address), or any other matter, in relation to whom or to which anonymity is sought,*
- (b) details of any enactments relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority.]*

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- (c) details of any other legal basis relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]
- (d) whether anonymity has previously been waived by the person in respect of whom anonymity is sought, [and/or in relation to any other matter], and if so, the details of that waiver).

Date (insert date)

(Signed)

[A.B.] [or C.D.], Applicant

[or X.Y.], Solicitor for Applicant

(insert the business address of solicitor)

SCHEDULE 2

Paragraph 3(3)

Rule 28.1A(2)

Form 28.1A

Form of application for an order restricting the reporting of proceedings

Court ref no. *(insert)*

IN THE SHERIFF APPEAL COURT

APPLICATION FOR AN ORDER RESTRICTING THE REPORTING OF PROCEEDINGS

in the appeal in the cause

[A.B.] *(designation and address)*

PURSUER and [APPELLANT/RESPONDENT]

Against

[C.D.] *(designation and address)*

DEFENDER and [RESPONDENT/APPELLANT]

1. The applicant is the pursuer *[or defender]* and *[appellant or respondent]*.
2. The applicant considers it is necessary for the court to make an order restricting the reporting of proceedings in the cause of [A.B.] *(designation and address)* against [C.D.] *(designation and address)* because:

(state briefly in numbered paragraphs the reasons which should, where applicable, include the following information:

- (a) details of any person (including their designation and address), or any other matter, in relation to whom or to which anonymity is sought,*
- (b) details of any enactments relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (c) details of any other legal basis relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*

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- (d) whether anonymity has previously been waived by the person in respect of whom anonymity is sought, [and/or in relation to any other matter,] and if so, the details of that waiver).

Date (insert date)

[A.B.] [or [C.D.]], Applicant

[or [X.Y.], Solicitor for Applicant

(insert the business address of solicitor)

SCHEDULE 3

Paragraph 4(3)

Rule 26.1A(2)

Form 26.1A

Form of application for an order restricting the reporting of proceedings

Court ref number (*insert*)

IN THE SHERIFF APPEAL COURT

APPLICATION FOR AN ORDER RESTRICTING THE REPORTING OF PROCEEDINGS

in the appeal by

[A.B.] (*designation and address*)

APPELLANT

Against

[C.D.] (*designation and address*)

RESPONDENT

1. The applicant is the appellant [*or respondent*].
2. The applicant considers it is necessary for the court to make an order restricting the reporting of proceedings in the cause [A.B.] (*designation and address*) against [C.D.] (*designation and address*) because:

(state briefly in numbered paragraphs the reasons which, where applicable, should include the following information:

- (a) *details of any person (including their designation and address), or any other matter, in relation to whom or which anonymity is sought,*
- (b) *details of any enactments relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (c) *details of any other legal basis relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (d) *whether anonymity has previously been waived, by the person in respect of whom anonymity is sought, [and/or in relation to any other matter], and if so, the details of that waiver).*

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Date (*insert date*)

(signed)

[A.B.] [*or* C.D.], Applicant

[*or* [X.Y.], Solicitor for Applicant

(*insert the business address of solicitor*)

SCHEDULE 4

Paragraph 5(3)

Rule 48.1A(2)

Form 48.1A

Form of application for an order restricting the reporting of proceedings

Sheriff Court (*insert address*)

Court ref. no. (*insert*)

[A.B.] (*designation and address*)

Pursuer

Against

[C.D.] (*designation and address*)

Defender

1. The applicant is the pursuer [*or respondent*].
2. The applicant considers it is necessary for the court to make an order restricting the reporting of proceedings in the cause of [A.B.] (*designation and address*) against [C.D.] (*designation and address*) because:

(state briefly in numbered paragraphs the reasons which, where applicable, should include the following information:

- (a) *details of any person (including their designation and address), or any other matter, in relation to whom or which anonymity is sought,*
- (b) *details of any enactments relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (c) *details of any other legal basis relied upon to apply for an order and the reasons why the applicant consider an order should be granted, [with reference to enactments and/or authority,]*
- (d) *whether anonymity has previously been waived, by the person in respect of whom anonymity is sought, [and/or in relation to any other matter], and if so, the details of that waiver).*

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Date (*insert date*)

(signed)

[A.B.] [*or* C.D.], Applicant

or [X.Y.], Solicitor for Applicant

(*insert the business address of solicitor*)

SCHEDULE 5

Paragraph 6(3)

Rule 3.41.1A(2)

Form 58A

Form of application for an order restricting the reporting of proceedings

Court ref. no. *(insert)*

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

in the cause

[A.B.] *(designation and address)*, Pursuer

Against

[C.D.] *(designation and address)*, Defender

1. The applicant is the pursuer *[or defender]*.
2. The applicant considers that it is necessary for the court to make an order restricting the reporting of proceedings in the cause of [A.B.] *(designation and address)* against [C.D.] *(designation and address)* because:

(state briefly in numbered paragraphs the reasons which, where applicable, should include the following information:

- (a) details of any person (including their designation and address), or any other matter, in relation to whom or which anonymity is sought,*
- (b) details of any enactments relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (c) details of any other legal basis relied upon to apply for an order and the reasons why the applicant considers an order should be granted, [with reference to enactments and/or authority,]*
- (d) whether anonymity has previously been waived, by the person in respect of whom anonymity is sought, [and/or in relation to any other matter], and if so, the details of that waiver).*

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Date (*insert date*)

(signed)

[A.B.] [*or* C.D.], Applicant

[*or* X.Y.], Solicitor for Applicant

(*insert the business address of solicitor*)

EXPLANATORY NOTE

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

This Act of Sederunt makes amendments to the Rules of the Court of Session 1994, the Act of Sederunt (Sheriff Appeal Court Rules) 2021 (“the 2021 Rules”), the Act of Sederunt (Sheriff Appeal Court Rules) 2015 (“the 2015 Rules”), the Ordinary Cause Rules 1993 and the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (“the 1999 Rules”). These amendments provide that a party to the proceedings may make an application for an order restricting the reporting of the proceedings in the relevant court. The application must be made by motion and accompanied by the relevant form, in order that the court be given detailed reasons as to why such an order is sought.

The 2015 Rules were revoked by the 2021 Rules but, with exception to rules 21.2 to 21.4, were saved in relation to any proceedings raised before 6th January 2022. Accordingly, the Sheriff Appeal Court Rules 2015 will continue to apply to proceedings which are still ongoing on 2nd October 2023.

Paragraph 6(2)(b) also amends rule 3.54.4(6) of the 1999 Rules to correct a cross-referencing error.