

STATUTORY INSTRUMENTS

1986 No. 513 (S. 47)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Children Act 1975) 1986

Made - - - - 11th March 1986*Coming into Operation* 1st April 1986

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(a), sections 47(6) and 48(1) of the Children Act 1975(b) and of all other powers enabling them in that behalf, do hereby enact and declare—

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Children Act 1975) 1986 and shall come into operation on 1st April 1986.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

(3) In this Act of Sederunt, “the Ordinary Cause Rules” means the First Schedule to the Sheriff Courts (Scotland) Act 1907(c) and a reference to a “rule” means one of the numbered rules of that Schedule.

Amendments to Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules shall be amended as follows:

(2) In rule 3 (the initial writ), after paragraph (6) insert the following paragraphs:—

“(7) In an action relating to the custody of a child by a person by virtue of section 47 of the Children Act 1975—

(a) the parents of the child shall be named and designed in the initial writ as defenders in the cause; and

(b) if their address is known, citation of and service upon them shall proceed in accordance with rules 8 to 10, 12, and 15 to 17.

(8) In an action for custody of a child in which consent of the parent or guardian of the child is required by section 47(2) of the Children Act 1975, a form of consent as nearly as may be in accordance with Form T1 as set out in the Appendix to this Schedule shall be lodged in process.”.

(3) In rule 130 (Intimation following certain allegations), after paragraph (8) insert the following paragraph:—

(a) 1971 c.58.

(b) 1975 c.72.

(c) 1907 c.51 (First Schedule substituted by S.I. 1983/747 and amended by S.I. 1984/255).

“(9) In an action for custody of a child by a person by virtue of section 47(1) of the Children Act 1975, that person shall give notice to—

(a) the local authority within whose area that person resides within seven days of lodging the action; or

(b) in any other case, such local authority as the court may direct under section 49(1) of the Children Act 1975,

by intimating to the local authority a copy of the initial writ together with a notice as nearly as may be in accordance with Form T2 as set out in the Appendix to this Schedule.”.

(4) In the Appendix to the Ordinary Cause Rules, after Form T, insert Forms T1 and T2 as set out in the Schedule to this Act of Sederunt.

Emslie,

Lord President,
I.P.D.

Edinburgh,
11th March 1986.

SCHEDULE

FORM T1

rule 3(8)

Form of consent of parent or guardian in proceedings for custody of children under section 47 of the Children Act 1975

IN

..... PURSUER(S)

..... DEFENDER(S)

I, (*name and address*)

.....
 confirm that I am the mother/father/guardian* of the child (*insert full name of the child as it is given on the birth certificate, and the child's present address*)

.....
 I understand that if I consent to the granting of custody to the pursuer(s), the care, possession and control of the child may be granted to the pursuer(s) by the court.

I hereby consent to the making of a custody order in relation to the child (*name of child*)
 in favour of (*name and address of pursuer(s)*)

Dated at (*place*) the day of
19

Signature of person consenting

Signature of Witness

Full Name

Designation

Address

Signature of Witness

Full Name

Designation

Address

*Delete whichever is inappropriate.

FORM T2

rule 130(9)

**Notice to local authority under section 49(1) of the Children Act 1975 of presentation
of an initial writ for custody of a child under section 47 of that Act.**

Initial Writ

in

A.B. (*address*)

Pursuer(s)

for

Custody of the child E.F.

To (*name and address*)

TAKE NOTICE

1. That the pursuer has presented an initial writ to the Sheriff Court at (*address*) for the custody of the child E.F. A copy of the writ is attached to this notice.

2. That you are required under section 49(2) of the Children Act 1975 to submit to the court a report on all the circumstances of the child and on the proposed arrangements for the care and upbringing of the child.

Dated the day of 19

(*Signed*)(*Address*)

[Solicitor for the pursuer]

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Ordinary Cause Rules of the Sheriff Court to provide for (a) citation of parents as defenders, (b) consents of parents and guardians to custody proceedings and (c) intimation of proceedings to local authorities, in applications for custody under section 47 of the Children Act 1975.

SI 1986/513
ISBN 0-11-066513-9

