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STATUTORY INSTRUMENTS

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**1997 No. 1050 (S.95)**

**COURT OF SESSION, SCOTLAND**

**Act of Sederunt (Rules of the Court of Session  
Amendment No.4) (Miscellaneous) 1997**

*Made* - - - - - *20th March 1997*  
*Coming into force* - - - - - *6th April 1997*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Court of Session Act 1988<sup>(1)</sup> by section 97 of the Pensions Act 1995<sup>(2)</sup> and of all other powers enabling them in that behalf, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No.4) (Miscellaneous) 1997 and shall come into force on 6th April 1997.

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

**Amendment of the Rules of the Court of Session**

2.—(1) The Rules of the Court of Session 1994<sup>(3)</sup> shall be amended in accordance with the following sub-paragraphs.

(2) Rule 28A.2(2) (consequences of failure to intimate notice of non-admission) shall be omitted.

(3) In rule 30.3 (consequences of failure to intimate intention to proceed where agent has withdrawn)—

(a) the words “and interlocutor” shall be omitted; and

(b) for “interlocutor” in the second and third places where it occurs substitute “notice”.

(4) In rule 36.7(1) (admissions by parties), for “36.6(1)” substitute “28A.1(1)”.

(5) In rule 41.41 (references and appeals under certain Social Security Acts to be by stated case)—

(a) in paragraph (c), the words from “, or” to “173(1),” shall be omitted;

(b) the word “and” immediately preceding paragraph (d) shall be omitted;

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(1) 1988 c. 36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(3), and by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 45.

(2) 1995 c. 26.

(3) S.I.1994/1443; relevant amending instruments are S.I. 1996/2168, 1996/2587.

- (c) in paragraph (d), the words “, or section 173(3),” shall be omitted; and
- (d) add the following paragraphs after paragraph (d)–
  - “(e) a reference by the Occupational Pensions Regulatory Authority under section 97(1) of the Pensions Act 1995; and
  - (f) an appeal under section 97(3) of the Pensions Act 1995.”
- (6) Rule 49.40 (applications by motion in certain depending actions) shall become paragraph (1) of that rule and the following paragraph shall be added as paragraph (2) of that rule–
  - “(2) Written intimation of a motion under paragraph (1) shall be given to every other party not less than 7 days before the date on which the motion is enrolled.”
- (7) The following heading shall be inserted as the heading for rule 49.88–

**“Application under section 11(1)(d) of the Act of 1995 following order under section 13 of that Act”**

- (8) In rule 59.1(2) (presentation of applications for letters of arrestment or inhibition), for the words from “in” to “Department” substitute “to the Deputy Principal Clerk”.
- (9) In rule 68.2(1) (applications and appeals under the Act of 1980), at the beginning insert “Except in the case of an application under paragraph 20 of Schedule 4 to the Act of 1980 (which shall be made by letter to the Deputy Principal Clerk),”.
- (10) In the appendix–
  - (a) in each of Forms 7.6, 30.2 (and the Form to be sent with it), 35.15-A, 44.2-A, 49.13-B, 62.40-A, 62.41-A, 62.42-A and 77.11, for “*in causa*”, wherever those words occur, substitute “in the cause”;
  - (b) in each of Forms 16.15-A and 16.15-B, add after the Note–
    - “(Where this Schedule is used to arrest a ship, the name, address and twenty-four hour contact telephone number of the agent for the party on whose behalf the arrestment was executed are to be inserted here.)
    - (*Name of agent*)
    - (*Address*)
    - (*Telephone number*)”;
  - (c) in each of Forms 16.15-C and 16.15-D, add after the Note–
    - “(The name, address and twenty-four hour contact telephone number of the agent for the party on whose behalf the arrestment was executed are to be inserted here.)
    - (*Name of agent*)
    - (*Address*)
    - (*Telephone number*)”;
  - (d) in Form 30.2–
    - (i) in the heading, after “Form of” insert “notice of”; and
    - (ii) in the paragraph beginning with the words “In accordance with”, the words “and the interlocutor” shall be omitted; and
  - (e) for Form 37.2-B substitute Form 37.2-B set out in the Schedule to this Act of Sederunt.

Edinburgh,  
20th March 1997

*Rodger of Earlsferry*  
Lord President, I.P.D.

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

SCHEDULE

Paragraph 2(10)(e)

**FORM 37.2-BCOURT OF SESSION JUROR'S CITATION**

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Rule 37.2(5)

*Citation Number:* \_\_\_\_\_ *Date:* \_\_\_\_\_  
*To:* \_\_\_\_\_ *Time:* \_\_\_\_\_  
*Place:* \_\_\_\_\_  
  
*Name of case:* \_\_\_\_\_

**You are cited to attend personally on the date and at the time and place stated above, and on such succeeding days as may be necessary to serve, if required, as a juror. If you fail to attend, you will be liable to the penalty prescribed by Law.**

*Sheriff Clerk Depute*

**Please read the enclosed leaflets carefully BEFORE attending court for selection.**

**Expenses:** Claims for loss of earnings and/or expenses should be made at the end of your jury service. You will be provided with an envelope for return of the completed form, and payment will be made by crossed cheque to your home address, seven to ten days from receipt of the claim.

**YOU MUST BRING THIS CITATION WITH YOU TO COURT**

If you wish to apply for exemption or excusal from jury service, please complete this form and return it as soon as possible to: **Deputy Principal Clerk of Session, Court of Session, 2 Parliament Square, Edinburgh EH1 1RQ.**

**DECLARATION:** Please state why you are applying for exemption or excusal from jury service:

- Age:** I am ..... years of age. My date of birth is .....
- Occupation:** I am employed as ..... and therefore statutorily exempt from service.
- Medical Condition:** I am medically unfit for jury service and enclose a medical certificate from my doctor.
- Special Reason:** .....

**N.B.** Should you be **excused** from jury service on this occasion, a further juror's citation may be sent out to you within twelve months.

**I declare that the foregoing information is correct and acknowledge that I may be asked for proof of any statement made above.**

Signature ..... Date .....

If you have any queries telephone **0131 225 2595 Ext.254**. Please quote citation number and date of attendance.

**Unfortunately there are no facilities for car parking at or near the court.**

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**CERTIFICATE OF LOSS OF EARNINGS OR PAYMENT TO SUBSTITUTE /  
CHILD MINDER (OR LOSS OF NATIONAL INSURANCE BENEFIT)**



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## EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994 as follows:

- (a) paragraph 2(2) revokes rule 28A.2(2) concerning the consequences of a failure to intimate a notice of non-admission;
- (b) paragraphs 2(3) and 2(4) make minor amendments to rule 30.3 (consequences of a failure to intimate an intention to proceed where an agent has withdrawn) and rule 36.7 (admissions by parties);
- (c) paragraph 2(5) amends rule 41.41 (references and appeals under certain Social Security Acts to be by stated case) by replacing references to the Occupational Pensions Board and section 173 of the Pension Schemes Act 1993 with references to the Occupational Pensions Regulatory Authority and section 97 of the Pensions Act 1995 respectively;
- (d) paragraph 2(6) amends rule 49.40 so as to require intimation of motions under that rule;
- (e) paragraph 2(7) inserts a heading for rule 49.88 (which relates to certain applications under the Children (Scotland) Act 1995);
- (f) paragraph 2(8) amends rule 59.1(2) in consequence of the closure of the Signet Office by providing that applications for letters of arrestment or inhibition are to be presented to the Deputy Principal Clerk;
- (g) paragraph 2(9) amends rule 68.2(1) so as to provide that applications under paragraph 20 of Schedule 4 to the Solicitors (Scotland) Act 1980 are to be dealt with by letter to the Deputy Principal Clerk; and
- (h) paragraph 2(10) substitutes the words “in the cause” for “*in causa*” in a number of Forms in the appendix to the Rules; inserts a new provision into four forms relating to arrestment of ships (Forms 16.15-A, 16.15-B, 16.15-C and 16.15-D) so as to require information about the agent of the person on whose behalf the arrestment is executed to be shown on the Schedule; and sets out, in the Schedule, a new Form 37.2-B for citation of jurors to replace the current Form 37.2-B.