
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 171

SHERIFF COURT

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) (No. 3) 2013**

Made - - - - 28th May 2013
*Laid before the Scottish
Parliament* - - - - 30th May 2013
*Coming into force in accordance with paragraph 1(2)
and (3)*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971⁽¹⁾ and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No. 3) 2013.

(2) Subject to subparagraph (3) it comes into force on 25th June 2013.

(3) Paragraph 3 comes into force on 7th June 2013.

(4) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(5) In this Act of Sederunt “Summary Applications Rules” means the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999⁽²⁾.

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- (1) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12; the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4); the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2); the Adults with Incapacity (Scotland) Act 2000 (asp 4) (the “2000 asp”), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2003 (asp 3), section 14(2); the Consumer Credit Act 2006 (c.14), section 16(4); the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (the “2007 asp”) section 33; and the Legal Services (Scotland) Act 2010 (asp 16) (the “2010 asp”), section 127(a). Section 32 is amended prospectively by the 2007 asp, schedule 5, paragraph 10; and the Children’s Hearings (Scotland) Act 2011 (asp 1), section 185. Section 32 was extended by the Debtors (Scotland) Act 1987 (c.18), section 97; the Child Support Act 1991 (c.48), sections 39(2) and 49; and section 2(4) of the 2000 asp.
- (2) S.I.1999/929, amended by S.S.I. 2000/148 and 387; 2002/7, 129, 130, 146, and 563; 2003/26, 27, 98, 261, 319, 346 and 556; 2004/197, 222, 334 and 455; 2005/61, 445, 473, 504 and 648; 2006/198, 410, 437 and 509; 2007/6, 233, 339, 440 and 463; 2008/9, 41, 111, 223, 335, 365 and 375; 2009/107, 109, 164, 294, 320 and 402; 2010/324, 340 and 416; 2011/193 and 386; 2012/188 and 271; 2013/91 and 135.

Adults with incapacity

2.—(1) The Summary Application Rules are amended in accordance with the following subparagraphs.

(2) For rule 3.16.4(1) (service of application)(3) substitute—

“**3.16.4.**—(1) Service of the application or other proceedings and subsequent proceedings, including proceedings for renewal of guardianship orders, shall be made in Form 20 on —

- (a) the adult;
- (b) the nearest relative of the adult;
- (c) the primary carer of the adult (if any);
- (d) the named person of the adult (if any);
- (e) any guardian, continuing attorney or welfare attorney of the adult who has any power relating to the application or proceedings;
- (f) the Public Guardian;
- (g) where appropriate, the Mental Welfare Commission;
- (h) where appropriate, the local authority;
- (i) where a guardianship order has been made under section 57(2)(c) or section 58(1A) of the Criminal Procedure (Scotland) Act 1995, to the Lord Advocate and, where the order was made by—
 - (i) the High Court of Justiciary, to the Clerk of Justiciary; or
 - (ii) a sheriff, to the sheriff clerk of the Sheriff Court in which the order was made;
- (j) any other person directed by the sheriff.”

(3) The heading of rule 3.16.4 becomes “Service of application and renewal proceedings”.

(4) Rule 3.16.8(5)(4) is omitted.

Amendment of the Sheriff Court Company Insolvency Rules

3.—(1) The Act of Sederunt (Sheriff Court Company Insolvency Rules) 1986(5) is amended in accordance with the following subparagraphs.

(2) In rule 3 (interpretation)(6)—

(a) in paragraph (1) insert the following definitions in the appropriate sequential order—

““the Act of 2004” means the Energy Act 2004(7);

“the Act of 2011” means the Energy Act 2011(8);

“administration” shall include an energy administration under the Act of 2004 or the Energy Administration Rules and an energy supply company administration under the Act of 2011 or the Energy Supply Company Administration Rules and “administration order” and “administrator” shall be construed accordingly;

(3) Rule 3.16.4 was amended by [S.S.I. 2002/146](#) and [2008/111](#).

(4) Rule 3.16.8(5) was inserted by [S.S.I. 2008/111](#)

(5) [S.I. 1986/2297](#), last amended by [S.S.I. 2008/223](#).

(6) Rule 3 was last amended by [S.S.I. 2008/223](#).

(7) [2004 c.20](#).

(8) [2011 c.16](#).