
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 109

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of the Court of Session
Amendment No.7) (Miscellaneous) 1999**

Made - - - - - *7th October 1999*
Coming into force - - - - - *29th October 1999*

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(1) 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. 7) (Miscellaneous) 1999 and shall come into force on 29th October 1999.

(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(2) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 22.2(4) (party enrolling motion during adjustment period to lodge copy of record), for “lodge in process” there shall be substituted “make available for the use of the court”.

(3) In rule 42.14(3)(b) (which specifies a factor to be taken into account in determining whether an additional fee is to be allowed), at the end there shall be added “or the exceptional urgency of the steps taken by him”.

(4) After rule 49.27 there shall be inserted—

“Expenses of curator ad litem appointed to a child

49.27A. Where in any family action a curator *ad litem* is appointed to a child, the pursuer shall be responsible, in the first instance, for payment of the fees and outlays of the curator

(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) S.I.1994/1443.

ad litem incurred during the period from his appointment until the occurrence of any of the following events—

- (a) the lodging of a minute by the curator stating that he does not intend to lodge defences;
- (b) the curator instructing the lodging of defences or a minute adopting defences which are already lodged; or
- (c) the discharge, before the occurrence of the events mentioned in sub-paragraphs (a) and (b), of the curator.”.

(5) In rule 59.1 (applications for letters of arrestment or inhibition)—

(a) in paragraph (1)—

- (i) the word “or” immediately preceding sub-paragraph (e) shall be omitted; and
- (ii) after that sub-paragraph there shall be added

“or

(f) Form 59.1-F (inhibition on contract for transfer of heritable property)”;
and

(b) in paragraph (4), after “59.1-D” there shall be inserted “or is in Form 59.1-F”.

(6) In the Appendix, after Form 59.1-E there shall be inserted as Form 59.1-F the form in the Schedule to this Act of Sederunt.

Edinburgh,
7th October 1999

Rodger of Earlsferry
Lord President I.P.D.

SCHEDULE

Paragraph 2(6).

FORM 59.1-FForm of letters of inhibition on contract for transfer of heritable property

Rule 59(1)(f)

IN THE COURT OF SESSION

Application of [A.B.] (insert name of applicant) for Letters of Inhibition

My Lords of Council and Session—

1. In a [specify nature of contract] dated (insert date) [C.D.] (insert name and address of other party to contract) bound himself (or herself or themselves or itself) to convey to [A.B.] (insert name and address of applicant) the heritable property known as (insert description of property) with entry as at (insert date of entry). The [contract] is produced with this application.
2. The applicant is apprehensive that the said [C.D.] may grant a disposition of the said property in favour of a third party in breach of the said [C.D.]'s obligation to the applicant under the [contract].
3. The applicant therefore requests your Lordships to grant warrant to inhibit the said [C.D.].

According to Justice etc.

(Signed)

Solicitor [*or Agent*] for applicant

(Address)

Warrant to inhibit granted in accordance with the above application.

Date:

(Signed)

Depute [*or Assistant*] Clerk of Session

(Signet)

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

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) amends rule 22.2(4) so as to require a party enrolling certain motions during the adjustment period to make available to the court, for the hearing of that motion, a copy of the open record;
- (b) paragraph 2(3) requires the court (or the auditor) to take into account, for the purposes of an application under rule 42.14 for an additional fee, whether the solicitor has had to act with exceptional urgency;
- (c) paragraph 2(4) makes provision as respects payment of the fees of curators *ad litem* appointed in cases involving children;
- (d) paragraph 2(5) and (6) make provision for a new form (Form 59.1-F) to be used where a party to a contract for the transfer of heritable property applies for letters of inhibition to prevent the other party to that contract granting a disposition to a third party in breach of his contractual obligations.