

2009 No. 164

SHERIFF COURT

Act of Sederunt (Sheriff Court Rules Amendment) (Sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990) 2009

Made - - - - *24th April 2009*

Coming into force - - *20th May 2009*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a) 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—

- (a) may be cited as the Act of Sederunt (Sheriff Court Rules Amendment) (Sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990) 2009; and
- (b) comes into force on 20th May 2009.

(2) This Act of Sederunt is to 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(b);

“the Summary Application Rules” means the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(c);

“the Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(d);

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- (a) 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), schedule 5, paragraph 13 and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43, and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49, the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2) and the Bankruptcy and Diligence (Scotland) Act 2007 (asp 3), section 33.
 - (b) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445 and S.S.I. 2000/239 and 408, 2001/8 and 144, 2002/7, 128 and 560, 2003/25 and 26, 2004/197 and 350, 2005/20, 189, 638 and 648, 2006/198, 207, 293, 410 and 509, 2007/6, 339, 440 and 463 and 2008/121, 223 and 365 and 2009/107.
 - (c) S.I. 1999/929, amended by S.S.I. 2000/18 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, 2003/26, 27, 98, 261, 319, 346 and 556, 2004/197, 222, 334 and 455, 2005/61, 473, 504 and 648, 2006/198, 410, 437 and 509, 2007/6, 233, 339, 440 and 463 and 2008/9, 41, 111, 223, 335 and 365 and 2009/107 and 109.
 - (d) S.S.I. 2002/132, amended by S.S.I. 2003/26, 2004/197, 2005/648, 2006/509, 2007/6, 339, 440 and 463 and 2008/121, 223 and 365 and 2009/107.

“the Small Claim Rules” means the Small Claim Rules in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002(a).

Amendment of rules in consequence of sections 25 to 29 of the 1990 Act

2. In rule 1.2 (interpretation) of the Ordinary Cause Rules, at the end there is added—

“(6) In these Rules, references to a solicitor include a reference to a member of a body which has made a successful application under section 25 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(b) but only to the extent that the member is exercising rights acquired by virtue of section 27 of that Act.”.

3. In rule 1.2 (interpretation) of the Summary Application Rules, at the end there is added—

“(4) In this Act of Sederunt, references to a solicitor include a reference to a member of a body which has made a successful application under section 25 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 but only to the extent that the member is exercising rights acquired by virtue of section 27 of that Act.”.

4.—(1) The Summary Cause Rules are amended in accordance with paragraphs (2) and (3).

(2) In rule 1.1 (citation, interpretation and application), after paragraph (4) there is inserted—

“(4A) In these Rules, references to a solicitor include a reference to a member of a body which has made a successful application under section 25 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 but only to the extent that the member is exercising rights acquired by virtue of section 27 of that Act.”.

(3) In rule 23.3 (expenses), in paragraph (1) for “statutory table of fees of solicitors appropriate to the action” there is substituted “applicable statutory table of fees”.

5.—(1) The Small Claim Rules are amended in accordance with paragraphs (2) and (3).

(2) In rule 1.1 (citation, interpretation and application), after paragraph (4) there is inserted—

“(4A) In these Rules, references to a solicitor include a reference to a member of a body which has made a successful application under section 25 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 but only to the extent that the member is exercising rights acquired by virtue of section 27 of that Act.”.

(3) In rule 21.6 (expenses), in paragraph (2) for “statutory table of fees of solicitors appropriate to a summary cause” there is substituted “applicable statutory table of fees”.

A. C. HAMILTON
Lord President
I.P.D.

Edinburgh
24th April 2009

(a) S.S.I. 2002/133, amended by S.S.I. 2003/26, 2004/197, 2005/648, 2006/509, 2007/6, 339, 440 and 2008/121, 223 and 365 and 2009/107.

(b) 1990 c.40.

EXPLANATORY NOTE

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

By sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, any professional or other body may, for the purpose of enabling any of their members who is a natural person to acquire rights to conduct litigation or rights of audience, make an application for that purpose to the Lord President of the Court of Session and the Scottish Ministers. Such an application must include a draft scheme, which the Lord President and the Scottish Ministers may approve. Section 27(1) of the 1990 Act provides that where such an application has been granted any member of the body concerned who is qualified under the scheme and who appears to the body to be a fit and proper person has the rights to conduct litigation or rights of audience to which that qualification entitles him or her. This Act of Sederunt amends the principal sets of sheriff court rules so as to ensure that they properly accommodate the possibility of such a person conducting litigation or exercising a right of audience in the sheriff court.

Sections 25 to 29 of the 1990 Act were brought into force in March 2007.

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