

2013 No. 241

SHERIFF COURT

**Act of Sederunt (Summary Applications, Statutory Applications
and Appeals etc. Rules Amendment) (Policing and Crime Act
2009) 2013**

<i>Made</i>	- - - -	<i>12th August 2013</i>
<i>Laid before the Scottish Parliament</i>		<i>14th August 2013</i>
<i>Coming into force</i>	- -	<i>1st October 2013</i>

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 Scottish Civil Justice Council in accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(b), do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules Amendment) (Policing and Crime Act 2009) 2013.

(2) It comes into force on 1st October 2013.

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

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

Policing and Crime Act 2009(d)

2.—(1) Part XIX of the Summary Application Rules (Proceeds of Crime Act 2002)(e) is amended in accordance with the following subparagraph.

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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) (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.
- (b) 2013 asp 3.
- (c) S.I.1999/929, amended by S.S.I. 2000/148 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, 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.
- (d) 2009 c.26.
- (e) Part XIX was inserted by S.S.I. 2002/563 and amended by S.S.I. 2003/98.

(2) After rule 3.19.20 (appeals against determination of outlays and remuneration) insert—

“Detention and realisation of seized property

Discharge or variation of detention order

3.19.20A. An application to the sheriff under section 127N(2) (discharge, variation and lapse of detention order) shall be made by minute in the process of the application for an order extending the period for which property may be detained under section 127J.

Appeals to the Court of Session

3.19.20B.—(1) This section shall apply to appeals against an interlocutor of the sheriff under the following sections—

- (a) section 127O(1) or (2);
- (b) section 131C(1), (2) or (4).

(2) An appeal shall be marked by writing a note of appeal on the interlocutor sheet, or other written record containing the interlocutor appealed against, or on a separate sheet lodged with the sheriff clerk, in the following terms—

“The applicant [*or affected person*] appeals to the Court of Session.”

(3) The note of appeal shall—

- (a) be signed by the appellant;
- (b) bear the date on which it is signed; and
- (c) where the appellant is represented, specify the name and address of the solicitor or other agent who will be acting for him or her in the appeal.

(4) The sheriff clerk shall transmit the process within 4 days after the appeal is marked to the Deputy Principal Clerk of Session.

(5) Within the period specified in paragraph (4), the sheriff clerk shall—

- (a) send written notice of the appeal to every other party; and
- (b) certify on the interlocutor sheet that he or she has done so.

(6) Failure of the sheriff clerk to comply with paragraph (5) shall not invalidate the appeal.”.

BRIAN GILL
Lord President
I.P.D.

Edinburgh
12th August 2013

EXPLANATORY NOTE

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

This Act of Sederunt amends the Summary Application Rules in consequence of the amendments made to the Proceeds of Crime Act 2002 by the Policing and Crime Act 2009. In particular, it inserts new rule 3.19.20A, which provides for applications to the sheriff under section 127N of the Proceeds of Crime Act 2002 (Discharge, variation and lapse of detention order) to be made by minute in the process of the application to extend the detention order. It also inserts rule 3.19.20B, which specifies the procedure for appealing to the Court of Session under sections 127O (appeals against further detention or discharge or variation of detention order) and 131C (appeals in relation to property seized under section 131A).

The Act of Sederunt comes into force on 1st October 2013, which is the same date that the relevant provisions of the Policing and Crime Act 2009 come into force.

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