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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 242**

**Act of Sederunt (Rules of the Court of  
Session 1994 and Summary Application Rules  
1999 Amendment) (Miscellaneous) 2017**

**Amendment of the Rules of the Court of Session 1994**

- 2.—(1) The Rules of the Court of Session 1994<sup>(1)</sup> are amended in accordance with this paragraph.  
(2) After rule 49.32 (abandonment by pursuer), insert—

**“Case management hearing**

**49.32A.**—(1) When defences are lodged, the court must fix a date for a case management hearing.

(2) The date fixed for the case management hearing must be not less than 4 weeks and not more than 8 weeks after the date on which defences were lodged.

(3) At the case management hearing, each party must address the court on—

- (a) any matters that are capable of agreement;
- (b) the matters that are in dispute between the parties;
- (c) any matters of potential complexity or difficulty;
- (d) any documents likely to be relevant to the matters in dispute;
- (e) any valuations that are likely to be required;
- (f) any expert evidence that is likely to be required;
- (g) whether steps require to be taken to give a child an opportunity to express views;
- (h) whether steps require to be taken to investigate any facts or circumstances relating to a child;
- (i) the estimated duration of the proof;
- (j) further procedure;
- (k) any other issues that the court considers appropriate.

(4) At the case management hearing, the court may—

- (a) order and fix a date for a further case management hearing;
- (b) order and fix a date for a pre-proof hearing not less than 6 weeks and not more than 8 weeks before the date fixed for the proof;
- (c) make such other orders as it considers appropriate for the expeditious progress of the cause.

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<sup>(1)</sup> The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2017/202).

### **Pre-proof hearing**

**49.32B.**—(1) The purpose of a pre-proof hearing is to ascertain, so far as is reasonably practicable, whether the cause is likely to proceed to proof on the date fixed.

(2) Where the court appoints a pre-proof hearing, the parties must provide the court with sufficient information to enable it to conduct the hearing as provided for in this rule.

(3) At the pre-proof hearing, the court must consider—

- (a) the state of preparation of the parties;
- (b) whether the proof has been fixed for an appropriate number of days;
- (c) the extent to which the parties have complied with any orders made by the court;
- (d) whether special measures will be required for the purposes of taking the evidence of any vulnerable witnesses;
- (e) whether a live link may be required.

(4) At the pre-proof hearing, the court may—

- (a) discharge the proof and fix a new date for it;
- (b) continue the pre-proof hearing;
- (c) order parties to lodge joint minutes, affidavits, and expert reports within such period as it considers appropriate;
- (d) direct how evidence is to be given by expert witnesses;
- (e) make an order authorising the use of special measures for the purposes of taking the evidence of any vulnerable witnesses;
- (f) make an order authorising the use of a live link;
- (g) make such other orders as it considers appropriate to secure the expeditious progress of the cause.”.