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STATUTORY INSTRUMENTS

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**1991 No. 1397**

**Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) 1991**

**PART IV**

**THE POLICY**

**Caution and professional indemnity insurance**

- 9.**—(1) An officer of court and any partnership of officers of court shall be covered by—
- (a) a bond of caution to the value of not less than £50,000 in respect of each claim covering each commission held by each officer of court to whom the bond of caution applies as a sheriff officer and, where applicable, as a messenger-at-arms, and
  - (b) a policy of professional indemnity insurance for not less than £100,000 in respect of each claim—
    - (i) in the case of an officer of court, covering each commission held by him as a sheriff officer and, where applicable, as a messenger-at-arms, and any employee of the officer of court; and
    - (ii) in the case of a partnership of officers of court, covering the firm, any partner of the firm in respect of each commission held by him as a sheriff officer and, where applicable, as a messenger-at-arms, and any employee of the firm.
- (2) The bond of caution and policy of professional indemnity insurance required under paragraph (1) above shall be incorporated in a single document and shall be—
- (a) in such terms as may be approved by the sheriffs principal and the Lord Lyon;
  - (b) obtained from a company on the list of guarantee companies approved by the Lord President under rule 200(e)(iv) of the Rules of the Court of Session<sup>(1)</sup>; and
  - (c) renewed annually.

**Renewals of Policy**

**10.**—(1) Each year every officer of court shall, within 30 days after the expiry of the current Policy, lodge, in accordance with the following paragraphs of this rule, a premium receipt from a company approved under rule 9(2)(b) above stating that he is covered by a Policy in accordance with rule 9 above.

- (2) There shall be sent to the sheriff principal of the sheriffdom in which the first current commission of the officer of court as a sheriff officer was granted—
- (a) the premium receipt referred to in paragraph (1) above; and
  - (b) such further evidence as the sheriff principal may require that the Policy in respect of which the premium receipt was issued is in force and applies to the sheriff officer.

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(1) S.I.1965/321.

(3) On being satisfied as to the premium receipt and any further evidence sent to him under paragraph (2) above, the sheriff principal shall cause the premium receipt to be lodged with the regional sheriff clerk who shall issue to the officer of court a letter of receipt of such premium receipt and such copy letters of receipt as may reasonably be required by the officer of court.

(4) Where an officer of court holds a commission as a sheriff officer in more than one sheriffdom, he shall send to the sheriff principal of every sheriffdom in which he holds a commission (other than the first current commission)–

- (a) a copy letter of receipt of such a premium receipt issued by the regional sheriff clerk; and
- (b) such further evidence as the sheriff principal may require that the Policy in respect of which the premium receipt was issued is in force and applies to the commission of the sheriff officer in his sheriffdom.

(5) Where an officer of court is also a messenger-at-arms, he shall send to the Lyon Clerk–

- (a) a copy letter of receipt of such a premium receipt issued by the regional sheriff clerk in respect of his commission as a sheriff officer; and
- (b) such further evidence as the Lord Lyon may require that the Policy in respect of which the premium receipt was issued is in force and applies to the commission of the officer of court as a messenger-at-arms.

(6) Where an officer of court fails to lodge a premium receipt under paragraph (1) above–

- (a) in respect of any commission as a sheriff officer, the sheriff principal may suspend the officer of court from practice as a sheriff officer; and
- (b) where applicable, in respect of his commission as a messenger-at-arms, a Lord Ordinary may, following a report sent to the Deputy Principal Clerk of Session by the Lyon Clerk, suspend the officer of court from practice as a messenger-at-arms.

(7) Where an officer of court has been suspended under paragraph (6) above, and sub-sequently lodges a premium receipt under paragraph (1) above, the sheriff principal and, where applicable, in respect of his commission as a messenger-at-arms a Lord Ordinary may recall his suspension.

### **Transitional provisions**

**11.**—(1) This rule applies to officers of court who are in practice on the date on which this Act of Sederunt comes into force.

(2) In this rule–

- (a) “the operative date” means the date on which this Act of Sederunt comes into force;
- (b) “the compliance date” in respect of an officer of court means whichever shall first occur of–
  - (i) the date on which the bond of caution in respect of that officer of court current on the operative date expires;
  - (ii) where more than one bond of caution is current in respect of that officer of court on the operative date, the date on which the first such bond expires;
  - (iii) the date on which the policy of professional indemnity insurance current in respect of that officer of court on the operative date expires; and
  - (iv) where more than one such policy of professional indemnity insurance is current in respect of that officer of court on the operative date, the date on which the first such policy expires; and
- (c) “the prescribed documents” means–
  - (i) a copy letter of receipt issued by a regional sheriff clerk in respect of the bond of caution required under paragraph 1 of Schedule 2; and

- (ii) a copy letter of receipt issued by a regional sheriff clerk in respect of a copy premium receipt from an insurance company for the policy of professional indemnity insurance required under paragraph 2 of Schedule 2.

(3) Within thirty days of the compliance date an officer of court shall send a Policy, together with such further evidence as the sheriff principal may require that the Policy is in force and applies to the officer of court, to the sheriff principal of the sheriffdom in which his first current commission as a sheriff officer was granted.

(4) On being satisfied as to the Policy and any further evidence furnished under paragraph (3) above, the sheriff principal shall cause the Policy and any such further evidence to be transmitted to the regional sheriff clerk who shall issue to the officer of court a letter of receipt of the Policy and such copy letters of receipt as may reasonably be required by the officer of court.

(5) Where an officer of court holds a commission as a sheriff officer in more than one sheriffdom, he shall send to the sheriff principal of every sheriffdom in which he holds a commission (other than the first current commission)–

- (a) a copy letter of receipt of the Policy issued by the regional sheriff clerk under paragraph (4) above; and
- (b) such further evidence as the sheriff principal may require that the Policy is in force and applies to the commission of the sheriff officer in his sheriffdom.

(6) Where an officer of court is also a messenger-at-arms, he shall send to the Lyon Clerk–

- (a) a copy letter of receipt of the Policy issued by the regional sheriff clerk in respect of his commission as a sheriff officer; and
- (b) such further evidence as the Lord Lyon may require that the Policy is in force and applies to the commission of the officer of court as a messenger-at-arms.

(7) Where an officer of court fails to lodge a Policy under paragraph (3) above–

- (a) in respect of any commission as a sheriff officer, the sheriff principal may suspend the officer of court from practice as a sheriff officer; and
- (b) where applicable, in respect of his commission as a messenger-at-arms, a Lord Ordinary may, following a report sent to the Deputy Principal Clerk of Session by the Lyon Clerk, suspend the officer of court from practice as a messenger-at-arms.

(8) Where an officer of court has been suspended under paragraph (7) above and sub-sequently lodges a Policy under paragraph (3) above the sheriff principal and, where applicable, in respect of his commission as a messenger-at-arms, a Lord Ordinary may recall his suspension.

(9) Until the compliance date, an officer of court shall comply with Schedule 2 to this Act of Sederunt.

(10) Where an officer of court–

- (a) applies for recommendation for a commission as a messenger-at-arms; and
- (b) the prayer of the petition under rule 7(1) above is granted before the compliance date in respect of that officer of court,

notwithstanding rule 7(5) above, the Lord Lyon shall not issue a commission to that officer of court as a messenger-at-arms until that officer of court has lodged with the Lyon Clerk

- (i) the prescribed documents; or
- (ii) the copy letter of receipt and further evidence referred to in rule 7(5) above.

(11) Where an officer of court–

- (a) applies for a commission as a sheriff officer in a particular sheriffdom or a particular district of a sheriffdom, and

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(b) his application is granted before the compliance date in respect of that officer of court, notwithstanding rules 8(6) and 8(7) above, the sheriff principal shall not issue a commission to the officer of court in respect of that sheriffdom or district until the officer of court has sent to the sheriff principal

- (i) the prescribed documents; or
- (ii) the copy letter of receipt and further evidence referred to in rule 8(7) above.