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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 293**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session 1994  
Amendment) (Signature of Petitions and Answers) 2019**

*Made* - - - - 13th September 2019  
*Laid before the Scottish  
Parliament* - - - - 17th September 2019  
*Coming into force* - - 16th October 2019

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013<sup>(1)</sup>, the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 103(1) of the Courts Reform (Scotland) Act 2014<sup>(2)</sup> and all other powers enabling it to do so.

**Citation and commencement, etc.**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Signature of Petitions and Answers) 2019.

(2) It comes into force on 16th October 2019.

(3) A certified copy is to be inserted into the Books of Sederunt.

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

2.—(1) The Rules of the Court of Session 1994<sup>(3)</sup> are amended in accordance with this paragraph.

(2) In rule 4.2 (signature of documents)<sup>(4)</sup>—

(a) after paragraph (3)(c) insert—

“(ca) a petition in Form 58.3 which requires to be lodged urgently and where counsel or other person having a right of audience, as the case may be, is unavailable to sign, may be signed by an agent if—

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(1) [2013 asp 3](#). Section 4 was amended by the Courts Reform (Scotland) Act 2014 ([asp 18](#)), schedule 5, paragraph 31(3) and by the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 ([asp 2](#)), schedule 1, paragraph 1(4).

(2) [2014 asp 18](#).

(3) 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. 2019/247](#).

(4) Rule 4.2 was last amended by [S.S.I. 2016/102](#).

- (i) the agent adds a docquet to the petition providing the name of the agent and confirming that the agent signed the petition on behalf of and with the authority of that counsel, or other person having a right of audience; and
  - (ii) there is lodged with the petition a declaration by counsel or other person having a right of audience that he or she authorised the agent named to sign the petition as it required to be lodged urgently and that counsel or other person having a right of audience was unavailable to sign;”;
- (b) in paragraph (4) for “paragraph (9)” substitute “paragraphs (9) and (10)”;
- (c) for paragraph (8) substitute—
- “(8) Where a writ has been signed—
  - (a) by counsel;
  - (b) by a person having a right of audience; or
  - (c) on behalf of and with the authority of counsel or other person having a right of audience in accordance with paragraph (3)(ca),
- he or she is to be regarded as the drawer of it and answerable for what it contains.”;
- (d) after paragraph (9) insert—
- “(10) Paragraph (3)(ca) applies in respect of answers requiring to be lodged under rule 58.6(1), subject to the following modifications—
  - (a) the reference to “petition in Form 58.3”; and
  - (b) the references to “petitions”,
- are to be read as references to “answers requiring to be lodged under rule 58.6(1)”.”.
- (3) In the appendix, in Form 58.3 (form of petition for judicial review)(5) in the signing docquet after “*right of audience*” insert “*or, under rule 4.2(3)(ca), agent*”.

Edinburgh  
13th September 2019

CJM SUTHERLAND  
Lord President  
I.P.D.

## EXPLANATORY NOTE

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

This Act of Sederunt amends rule 4.2 (signature of documents) of the Rules of the Court of Session 1994.

Paragraph 2(2)(a) inserts new paragraph (3)(ca) into rule 4.2 to provide that agents can sign a petition in Form 58.3 on behalf of and with authority of counsel or other persons having a right of audience, as the case may be, in certain circumstances. Paragraph 2(2)(d) inserts new paragraph (10) which provides that the rules in new paragraph (3)(ca) also apply to answers to a petition in Form 58.3. Minor consequential amendments are also made by paragraph 2(2) of this instrument.