
 STATUTORY INSTRUMENTS

1985 No. 780 (S.70)

SHERIFF COURT, SCOTLAND

**Act of Sederunt (Social Work (Scotland) Act 1968)
(Safeguarders) 1985**

Made - - - 17th May 1985

Coming into Operation 30th June 1985

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 18A(2) of the Social Work (Scotland) Act 1968(a), section 32 of the Sheriff Courts (Scotland) Act 1971(b) and of all other powers competent to them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Social Work (Scotland) Act 1968) (Safeguarders) 1985 and shall come into operation on 30th June 1985.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

(3) In this Act of Sederunt —

“safeguarder” means a person appointed under section 18A(1) of the Social Work (Scotland) Act 1968 for the purpose of safeguarding the interests of a child.

Rules for safeguarders

2.—(1) Where, in proceedings to which section 18A of the Social Work (Scotland) Act 1968(c) applies, the Sheriff considers it necessary to appoint a person for the purpose of safeguarding the interests of the child in the proceedings, he may, if he thinks fit, appoint a safeguarder for that purpose selected from a panel of persons appointed under the Social Work (Panels of Persons to Safeguard the Interests of Children) (Scotland) Regulations 1984(d).

(2) The Sheriff —

(a) shall consider whether it is necessary to appoint a safeguarder as soon as reasonably practicable after the lodging of defences in the proceedings; and

(b) may, at any later stage of the proceedings, if he thinks fit, appoint a safeguarder.

(a) 1968 c.49; section 18A was inserted by section 78 of the Children Act 1975 (c.72).

(b) 1971 c.58.

(c) 1968 c.49; section 18A was inserted by section 78 of the Children Act 1975 and as amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 7(3).

(d) S.I. 1984/1442.

3.—(1) A safeguarder appointed under paragraph 2 —

(a) shall be entitled to have copies of the pleadings and productions in the proceedings in respect of which he is appointed provided to him by the sheriff clerk; and

(b) may make such enquiries with regard to the proceedings as he considers appropriate.

(2) Within 21 days after his appointment, a safeguarder shall lodge a minute with the sheriff clerk stating whether he intends to enter the process and become a party to the proceedings.

4.—(1) If a safeguarder does not intend to enter the process, he shall append to the minute to be lodged under paragraph 3(2) a report specifying the extent of his enquiries and his conclusion as to the interests of the child in the proceedings.

(2) A safeguarder who has not entered the process shall have intimated to him by the sheriff clerk all subsequent interlocutors in the proceedings and may, on cause shown, seek leave to enter the process at any time or where competent to appeal against any interlocutor or decree.

5.—(1) If a safeguarder intends to enter the process, he shall lodge defences in the proceedings within 14 days of lodging the minute under paragraph 3(2).

(2) On entering the process, a safeguarder shall have all of the powers and duties at common law of a curator *ad litem* in respect of the child.

6.—(1) A safeguarder may appear personally in the proceedings or may instruct an advocate or a solicitor to appear on his behalf.

(2) Where an advocate or a solicitor is appointed to act as a safeguarder, he shall not act also as advocate or solicitor for the child in the proceedings.

Edinburgh.
17th May 1985.

Emslie,
Lord President
I.P.D.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt makes new provisions for rules of procedure in the sheriff court for the appointment of safeguarders under section 18A of the Social Work (Scotland) Act 1968 inserted by section 78 of the Children Act 1975 (and as amended by section 7(3) of the Health and Social Services and Social Security Adjudications Act 1983) and the conduct of proceedings in which they are involved. This Act of Sederunt comes into operation on the date that section 78 of the 1975 Act comes into force under the Children Act 1975 (Commencement No. 5) Order 1984 (S.I. 1984/1702).

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