
STATUTORY INSTRUMENTS

1998 No. 2637

**Act of Sederunt (Rules of the Court of Session
Amendment No. 2) (Miscellaneous) 1998**

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session 1994⁽¹⁾ shall be amended in accordance with the following sub-paragraphs.

(2) In Chapter 3, after rule 3.6 insert—

“Registers kept by the Court

3.6A

1.5. Any register kept by the Court, whether or not under or by virtue of these Rules, may be kept either—

- (a) in documentary form; or
- (b) in electronic form (that is to say in a form accessible only by electronic means).”.

(3) In Chapter 16, in rule 16.15(1)—

(a) for sub-paragraph (a) substitute—

- “(a) in the case of —
 - (i) an arrestment to found jurisdiction (other than the arrestment of a ship), a schedule in Form 16.15-A and a certificate of execution in Form 16.15-H;
 - (ii) an arrestment of a ship to found jurisdiction, a schedule in Form 16.15-AA and a certificate of execution in Form 16.15-HH;”;

(b) for sub-paragraph (c) substitute—

- “(c) in the case of an arrestment in *rem* of a ship, cargo or other maritime *res* to enforce a maritime hypothec or lien, a schedule in Form 16.15-C and a certificate of execution in Form 16.15 I”; and

(c) for sub-paragraph (e) substitute—

- “(e) in the case of an arrestment on the dependence of
 - (i) a cargo on board a ship, a schedule in Form 16.15-B;
 - (ii) a ship, a schedule in Form 16.15-BB, and a certificate of execution in Form 16.15-J.”.

(4) In Chapter 41, for Part VI (appeals under section 50 of the Social Work (Scotland) Act 1968) substitute—

“PART VI

APPEALS UNDER SECTION 51 OF THE CHILDREN (SCOTLAND) ACT 1995

Application of Part II to this Part

41.28. Part II (appeals by stated case etc.) shall apply to an appeal to the court by stated case under section 51(11)(b) of the Act of 1995 subject to the following provisions of this Part.

Interpretation of this Part

41.29. In this Part—

“the Act of 1995” means the Children (Scotland) Act 1995(2) and

“the Principal Reporter” means the Principal Reporter appointed under section 127 of the Local Government etc. (Scotland) Act 1994(3) or any officer of the Scottish Children’s Reporter Administration to whom there is delegated, under section 131(1) of that Act, any function of the Principal Reporter under the Act of 1995.

Lodging of reports and statements with sheriff clerk

41.30. Where, on application being made under subsection (13) of section 51 of the Act of 1995 to state a case for the purposes of an appeal under subsection (11)(b) of that section—

- (a) it appears to the sheriff (or as the case may be to the sheriff principal) that any report or statement lodged under subsection (2), or report lodged under subsection (3), of that section in the appeal to him is relevant to any issue which is likely to arise in the stated case; and
- (b) the report or statement has been returned to the Principal Reporter,

the sheriff (or sheriff principal) may require the Principal Reporter to lodge the report or statement with the sheriff clerk; but on the stated case being sent to the person who applied for it, the sheriff clerk shall return the report or statement to the Principal Reporter.

Lodging etc. of reports and statements in court

41.31 .—(1) Within seven days after the date on which the case is lodged under rule 41.11(1), the Principal Reporter shall send to the Deputy Principal Clerk the principal and three copies of every report or statement which he was required, under rule 41.30, to lodge.

(2) Neither the principal nor any copy of any such report or statement shall be made available to any of the other parties unless the court otherwise orders.

(3) Subject to any such order, every such report or statement shall remain in the custody of the Deputy Principal Clerk until the appeal has been determined or abandoned; and then shall be returned by him to the Principal Reporter.

Hearing in private

41.32. The court may direct that all or any part of the appeal shall be heard in private.

Expenses

41.33.—(1) No expenses shall be awarded to or against any party in respect of the appeal.

(2) 1995 c. 36.
(3) 1994 c. 39.

- (2) Rule 41.14(3)(b) (award of expenses in abandoned appeal) shall not apply to an appeal to which this Part applies.”.
- (5) In rule 62.18(1) (interpretation), in the definition of “Community judgment”–
- (a) omit the word “or” where it immediately follows sub-paragraph (b); and
 - (b) after sub-paragraph (c) add
 - “; or
 - (d) Article 82 of Regulation 40/94 of December 20, 1993(4) regulation of the Council of the European Union: on the Community trade mark”.
- (6) In rule 66.3, paragraph (2) (requirement for a certificate to be produced with the petition in an application, under section 1 of the Evidence (Proceedings In Other Jurisdictions) Act 1975(5) for assistance in obtaining evidence for civil proceedings in a court furth of Scotland) shall be omitted.
- (7) In the Appendix –
- (a) for forms 16.15-A to 16.15-D, substitute the forms headed 16.15-A, 16.15-AA 16.15-B, 16.15-BB, 16.15-C and 16.15-D; and
 - (b) after form 16.15-H insert the form headed 16.15-HH,
- in the Schedule to this Act of Sederunt.

(4) OJ.1994, 11/1.
(5) 1975 c. 34.