
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 283

**COURT OF SESSION
SHERIFF COURT**

**Act of Sederunt (Rules of the Court of Session 1994 and
Sheriff Court Rules Amendment) (No. 3) (Miscellaneous) 2015**

<i>Made</i>	- - - -	<i>7th July 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th July 2015</i>
<i>Coming into force</i>	- -	<i>7th August 2015</i>

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013⁽¹⁾, 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 225 of the Revenue Scotland and Tax Powers Act 2014⁽²⁾, sections 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014⁽³⁾, 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 and Sheriff Court Rules Amendment) (No. 3) (Miscellaneous) 2015.

(2) Subject to subparagraph (3), it comes into force on 7th August 2015.

(3) Paragraphs 2 to 6 come into force on 1st September 2015.

(4) 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⁽⁴⁾ are amended in accordance with this paragraph.

(1) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3).

(2) 2014 asp 16.

(3) 2014 asp 18.

(4) The Rules of the Court of Session 1994 are in Schedule 2 to the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2015/119 and prospectively amended by S.S.I. 2015/227, 228 and 246).

(2) In Form 35A.2 (form of child witness notice)(5), in paragraph 3 for “sixteen” substitute “eighteen”.

Amendment of the Ordinary Cause Rules 1993

3.—(1) The Ordinary Cause Rules 1993(6) are amended in accordance with this paragraph.

(2) In Form G19 (form of child witness notice)(7), in paragraph 3 for “sixteen” substitute “eighteen”.

Amendment of the Act of Sederunt (Child Care and Maintenance Rules) 1997

4.—(1) The Act of Sederunt (Child Care and Maintenance Rules) 1997(8) is amended in accordance with this paragraph.

(2) In Form 75 (child witness notice: Vulnerable Witnesses (Scotland) Act 2004 section 12)(9), in paragraph 3 for “sixteen” substitute “eighteen”.

Amendment of the Summary Cause Rules 2002

5.—(1) The Summary Cause Rules 2002(10) are amended in accordance with this paragraph.

(2) In Form 26B (form of child witness notice)(11), in paragraph 3 for “sixteen” substitute “eighteen”.

Amendment of the Small Claim Rules 2002

6.—(1) The Small Claim Rules 2002(12) are amended in accordance with this paragraph.

(2) In Form 16B (form of child witness notice)(13), in paragraph 3 for “sixteen” substitute “eighteen”.

Amendment of the Summary Application Rules

7.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(14) is amended in accordance with this paragraph.

(2) In Chapter 3, after Part XLV (mutual recognition of protection measures in civil matters)(15), insert—

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- (5) Form 35A.2 was inserted by [S.S.I. 2007/450](#).
- (6) The Ordinary Cause Rules 1993 are in Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (c.51). Schedule 1 was substituted by [S.I. 1993/1956](#) last amended by [S.S.I. 2015/176](#) and is prospectively amended by [S.S.I. 2015/227](#).
- (7) Form G19 was inserted by [S.S.I. 2007/463](#).
- (8) [S.S.I. 1997/291](#), last amended by [S.S.I. 2014/201](#).
- (9) Form 75 was inserted by [S.S.I. 2005/190](#) and amended by [S.S.I. 2013/172](#).
- (10) The Summary Cause Rules 2002 are in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002 ([S.S.I. 2002/132](#), last amended by [S.S.I. 2014/291](#) and is prospectively amended by [S.S.I. 2015/227](#)).
- (11) Form 26B was inserted by [S.S.I. 2007/463](#).
- (12) The Small Claim Rules 2002 are in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002 ([S.S.I. 2002/133](#), last amended by [S.S.I. 2014/291](#)).
- (13) Form 16B was inserted by [S.S.I. 2007/463](#).
- (14) [S.I. 1999/929](#), last amended by [S.S.I. 2015/85](#).
- (15) Part XLV was inserted by [S.S.I. 2014/371](#).

“PART XLVI COUNTER-TERRORISM AND SECURITY ACT 2015

Interpretation

3.46.1. In this Part “Schedule 1” means Schedule 1 to the Counter-Terrorism and Security Act 2015(16).

Applications for extended detention of travel documents

3.46.2.—(1) An application to the sheriff for an order under paragraph 8(1) of Schedule 1 (extension of 14-day period by judicial authority) is to be in Form 69.

(1A) Where an applicant seeks an order under paragraph 10(1) of Schedule 1 (order that specified information be withheld), the application for that order is to be included in Form 69.

(2) On receipt of an application, the sheriff is to fix a date for the determination of the application.

(3) The applicant must intimate the application to the person to whom it relates—

- (a) in Form 70, which is to be accompanied by a copy of the application; and
- (b) within the timescale and by the method specified by the sheriff.

(4) Where—

- (a) at any time before intimation of an application, the sheriff grants an order under paragraph 10 of Schedule 1 (order that specified information be withheld); and
- (b) the information to which the order relates includes information contained in the application,

the sheriff may order intimation of the application under deletion of that information.

Further applications for extended detention of travel documents

3.46.3. A further application under paragraph 8(1) of Schedule 1, by virtue of paragraph 12(1), is to be made by minute in the process relating to the extension of the 14-day period.”.

(3) In the Appendix, after Form 68 (form of certificate of sending of document to chief constable)(17), insert the forms set out in Schedule 1 to this Act of Sederunt.

Amendment of the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002

8.—(1) The Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002(18) is amended in accordance with this paragraph.

(2) In article 3(2) (summary warrants), in paragraph 2, for “form A or B” substitute “form A, B or C”.

(3) In Schedule 2 (forms of summary warrant)—

- (a) in the Table, after the entry for Form B—
 - (i) under “Form No.” insert “C”;

(16) 2015 c.6.

(17) Form 68 was inserted by S.S.I. 2014/371.

(18) S.S.I. 2002/560, last amended by S.S.I. 2009/403.

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- (ii) under “Description” insert “Warrant under section 225(5) of the Revenue Scotland and Tax Powers Act 2014”;
- (iii) under “Rule No.” insert “3(2)”;
- (b) after Form B (summary warrant under section 128(6) of the Finance Act 2008 for the recovery of sums payable to the Commissioners for Her Majesty’s Revenue and Customs)(**19**), insert the form set out in Schedule 2 to this Act of Sederunt.

Edinburgh
7th July 2015

CJM SUTHERLAND
Lord Justice Clerk
I.P.D.

(19) Form B was substituted by [S.S.I. 2009/403](#).

SCHEDULE 1

Paragraph 7(3)

Form 69

Rule 3.46.2(1)

FORM OF APPLICATION FOR EXTENSION OF THE 14-DAY PERIOD UNDER PARAGRAPH 8(1) OF SCHEDULE 1 TO THE COUNTER-TERRORISM AND SECURITY ACT 2015

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.], *(insert designation, rank and address of applicant)*

APPLICANT

Order(s) sought from the court

1. The applicant applies to the sheriff under paragraph 8(1) of Schedule 1 to the Counter-Terrorism and Security Act to extend the period of detention of a travel document relating to *(insert name and address of person to whom the application relates)* (“the person”) for a period of *(insert number of days)* from *(insert date of expiry of 14-day period)*.

Withholding of specified information

2. The applicant applies to the sheriff for an order under paragraph 10(1) of Schedule 1 to the Counter-Terrorism and Security Act withholding the information specified in subparagraph (a) for the reasons set out in subparagraph (b).
 - (a) The specified information is *(insert details of the information to be withheld)*
 - (b) The reasons for withholding that information are *(insert reasons, by reference to paragraph 10(2) of Schedule 1 to the Act)*.

Statement

1. This application is made under paragraph 8(1) of Schedule 1 to the Counter-Terrorism and Security Act 2015 (“the Act”).
2. The applicant is a senior police officer (within the meaning of paragraph 1(5) of Schedule 1 to the Act).
3. The travel document to which the application relates is *(insert details of travel document)*.
4. The travel document was taken from the person at *(insert place)* on *(insert date)*.

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6. The travel document has since been retained while *(insert reason for retention of travel document by reference to paragraph 5(1) of Schedule 1 to the Act)*.

7. *(Insert brief statement of steps taken by reference to paragraph 5(1) of Schedule 1 to the Act)*.

(signed)

Applicant

[or Solicitor for applicant

(add designation and business address)

Form 70

Rule 3.46.2(3)

FORM OF INTIMATION OF APPLICATION FOR EXTENSION OF THE 14-DAY PERIOD UNDER PARAGRAPH 8(1) OF SCHEDULE 1 TO THE COUNTERTERRORISM AND SECURITY ACT 2015

Court re

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.], *(insert designation and address of applicant)*

APPLIC

(Place and date)

You *(insert designation and address)* are hereby given intimation of the attached application which was lodged with the sheriff clerk at *(insert place)* on *(insert date)*.

The hearing of this application will take place at *(insert place and address of sheriff court)*, on day of at o'clock.

If you wish to oppose the application, you must —

- (a) provide written representations to the court and the applicant by *(insert date)*; or
- (b) attend the hearing in person or be legally represented at it if you wish to make written representations.

IF YOU ARE UNCERTAIN AS TO WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. It might also be possible to obtain advice from the Citizens' Advice Bureau or other advice agency.

SCHEDULE 2

Paragraph 8(3)(b)

Article 3(2)

Form C

**SUMMARY WARRANT UNDER SECTION 225(5) OF THE REVENUE
SCOTLAND AND TAX POWERS ACT 2014 FOR THE RECOVERY OF SUMS
PAYABLE TO REVENUE SCOTLAND**

(Place and date)

The Sheriff having considered the application dated *(date)* by *(name and address of applicant)* along with the certificate produced, grants a summary warrant authorising recovery of the amount payable by each person specified in the application by all lawful execution.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994, the Ordinary Cause Rules 1993, the Summary Cause Rules 2002, the Small Claim Rules 2002, the Act of Sederunt (Child Care and Maintenance Rules) 1997, the Summary Application Rules and the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002.

Paragraphs 2 to 6 modify the form of child witness notice prescribed in the Rules of the Court of Session, the Ordinary Cause Rules, the Summary Cause Rules, the Small Claim Rules and the Act of Sederunt (Child Care and Maintenance Rules) 1997 for the purposes of section 12(2) of the Vulnerable Witnesses (Scotland) Act 2004. These rules are amended so that references to a child witness are to a person under the age of eighteen at the date of the commencement of the proceedings. These amendments are made in consequence of section 22 of the Victims and Witnesses (Scotland) Act 2014, which amends the definition of a “child witness” in section 11 of the Vulnerable Witnesses (Scotland) Act 2004.

Paragraph 7 amends the Summary Application Rules by inserting Part XLVI (Counter-Terrorism and Security Act 2015) and new Forms 69 and 70. This Part provides for the procedure when an application is made to the sheriff to extend the period of detention of travel documents. It

also provides for the procedure to make further applications. Form 69 provides the form that the application will take. Form 70 provides the form of intimation that the application will take.

Paragraph 8 amends the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002. It inserts a new Form C, which prescribes the form of summary warrant to recover sums payable to Revenue Scotland.