
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 459

SHERIFF COURT

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules Amendment) (Transfer from Lands Tribunal for Scotland) 2017

Made - - - - 20th December 2017
Laid before the Scottish Parliament - - - - 21st December 2017
Coming into force - - 19th January 2018

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.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 104(1) of the Courts Reform (Scotland) Act 2014(2) 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 (Summary Applications, Statutory Applications and Appeals etc. Rules Amendment) (Transfer from Lands Tribunal for Scotland) 2017.

(2) It comes into force on 19th January 2018.

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

Amendment of the Summary Application Rules 1999

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(3) is amended in accordance with this paragraph.

(2) After Part XLIX (illegal working orders)(4) of Chapter 3 (rules on applications under specific statutes) insert—

(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) S.I. 1999/929, last amended by S.S.I. 2017/386.
(4) Part XLIX was inserted by S.S.I. 2017/386.

“PART L

TRANSFERS FROM THE LANDS TRIBUNAL FOR SCOTLAND TO THE SHERIFF UNDER THE ELECTRONIC COMMUNICATIONS CODE

Interpretation

3.50.1. In this Part “the Jurisdiction Regulations” means the Electronic Communications Code (Jurisdiction) Regulations 2017(5).

Transfer from Lands Tribunal for Scotland

3.50.2.—(1) On receipt of the documentation in proceedings which have been transferred from the Lands Tribunal for Scotland to the sheriff under regulation 5 of the Jurisdiction Regulations, the sheriff clerk must record the date of receipt on the first page of the documentation.

(2) Within 7 days of receipt of the documentation referred to in paragraph (1), the sheriff may make such order as he or she thinks fit to secure, so far as practicable, that the cause thereafter proceeds in accordance with these Rules.

(3) An order under paragraph (2) may include—

- (a) where the cause has not been intimated to the respondent before being transferred to the sheriff, an order for the applicant to make intimation of the cause to the respondent;
- (b) where no response has been lodged by the respondent in the cause, an order for answers to be lodged;
- (c) an order for a hearing to determine further procedure.”.

Edinburgh
20th December 2017

CJM SUTHERLAND
Lord Justice General
I.P.D.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (“the Summary Application Rules”) in consequence of the Electronic Communications Code (Jurisdiction) Regulations 2017 (“the 2017 Regulations”).

Paragraph 2(2) inserts a new Part L, containing new Rules 3.50.1 and 3.50.2, into the Summary Application Rules to make provision concerning certain specified proceedings relating to the electronic communications code (“the code”) which is set out in Schedule 3A of the Communications Act 2003 (“the 2003 Act”).

Schedule 3A of the 2003 Act was inserted by Part 2 of the Digital Economy Act 2017. The code replaces the previous code, set out in Schedule 2 of the Telecommunications Act 1984. The 2017 Regulations permit functions conferred on the court by the code to be exercised, for Scotland, by the Lands Tribunal for Scotland. Regulation 5 of the 2017 Regulations gives the Lands Tribunal for Scotland power to transfer certain specified proceedings to the sheriff court.

Provision is made, on transfer of the proceedings, for the sheriff clerk to record the date of receipt of the documentation in the proceedings, and for the sheriff to make such orders as he or she thinks fit to secure, so far as practicable, that the cause proceeds in accordance with the Summary Application Rules.