STATUTORY INSTRUMENTS

1980 No. 1803 (S. 163)

COURT OF SESSION, SCOTLAND
SHERIFF COURT, SCOTLAND

Act of Sederunt (Judicial Factors) 1980

Made - - - - *25th November* 1980

Coming into Operation *22nd December* 1980

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(**a**), section 32 of the Sheriff Courts (Scotland) Act 1971(**b**), and of section 2(5) of the Trusts (Scotland) Act 1961(**c**), and of all other powers enabling 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 (Judicial Factors) 1980 and shall come into operation on 22nd December 1980.

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

Applications by judicial factors to Accountant of Court

2. In the rules of Court(**d**), after rule 200 there shall be inserted the following rule:—

"200A. *Applications by Judicial Factors to Accountant of Court*

(1) A judicial factor making an application under section 2(3) of the Trusts (Scotland) Act 1961 to the Accountant of Court for his consent to the doing of an act to which that section applies shall on the date on which he makes the application or as soon as possible thereafter notify the persons specified in paragraph (2) by notice sent by recorded delivery post of the following matters:—

(*a*) the date of the application;

(*b*) the act to which it relates;

(*c*) the right of that person to object to the doing of that act by notice sent by recorded delivery post to the Accountant of Court and to the judicial factor within a period of 28 days from the date on which the notice was posted;

(*d*) that in the absence of any such objection, the Accountant of Court may consent to the doing of that act.

(2) The persons referred to in paragraph (1) are:—

(*a*) the judicial factor's cautioner;

(*b*) the petitioner for the appointment of a judicial factor on the estate;

(a) 1933 c.41. (b) 1971 c.58. (c) 1961 c.37, amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55). (d) S.I. 1965/321.

(*c*) the persons upon whom the petition for appointment was served, including the ward, if he was so served and there is no change in circumstances which would warrant service on him being dispensed with.

(3) The judicial factor shall, on serving a notice on any person under paragraph (1), send to the Accountant of Court a duly completed notice of execution of service.

3. Rule 200A of the Rules of the Court of Session shall have effect in relation to judicial factors appointed by the sheriff as it has effect in relation to judicial factors appointed by the Court of Session.

Emslie,
Lord President.
I.P.D.

Edinburgh.
25th November 1980.

EXPLANATORY NOTE

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

This Act of Sederunt gives effect to the new provisions of section 2(5) of the Trusts (Scotland) Act 1961 as substituted by section 8 of Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 by prescribing the procedure in relation to applications by judicial factors for the consent of the Accountant of Court to the doing of acts which might otherwise be at variance with the terms or purposes of a trust.

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