1971 No. 203 (S.32)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 3) 1971

Made - - - -	*4th February* 1971
Coming into Operation	*4th March* 1971

The Lords of Council and Session, under and by virtue of the powers conferred upon them by sections 16 and 34 of the Administration of Justice (Scotland) Act 1933**(a)** and of all other powers competent to them in that behalf, do hereby enact and declare as follows:—

Citation and commencement

1. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 3) 1971 and shall come into operation on 4th March 1971.

Appeals under section 50 *of the Social Work* (*Scotland*) *Act* 1968

2. The Rules of Court **(b)** shall be amended as follows:—

After Rule 289 there shall be inserted the following Rule:—

"289A. *Appeals under section* 50 *of the Social Work* (*Scotland*) *Act* 1968

(1) Where within the period mentioned in section 50(2) of the Social Work (Scotland) Act 1968**(c)** an application is made to the sheriff to state a case under subsection (1) of that section, the sheriff shall, within fourteen days after the date on which the application is made, prepare a draft stated case and shall cause a copy thereof to be sent forthwith to the applicant and the other parties including the reporter in the case if he is not the applicant.

(2) Where on an application being made to him as aforesaid it appears to the sheriff that any report or statement lodged with the sheriff clerk by the reporter in accordance with section 49(2) or 49(3) of the said Act of 1968 in the appeal to the sheriff is relevant to any issue which is likely to arise in the proceedings upon the stated case and the report or statement has been returned to the reporter in accordance with Rule 16(3) of the Act of Sederunt (Social Work) (Sheriff Court Procedure) Rules 1971**(d)**, the sheriff may require the reporter to lodge again the report or statement with the sheriff clerk.

(3) If the applicant or any of the other parties including the reporter in the case if he is not the applicant desires to have any adjustments made on the draft case he shall, within fourteen days after the date on which a copy of the draft was sent to him as aforesaid, return that copy to the sheriff showing thereon the said adjustments.

(a) 1933 c. 41.
(b) S.I. 1965/321 (1965 I, p. 803).
(c) 1968 c. 49.
(d) S.I. 1971/92 (1971 I, p. 167).

(4) As soon as possible after the return of the said copies of the draft case or, in the event of default in the return thereof, upon the expiry of the period of fourteen days mentioned in the last foregoing paragraph, the sheriff shall state and sign the case for the opinion of the court and the sheriff clerk shall deliver the case to the party who applied for it or, as the case may be, who first applied for it and at the same time shall return to the reporter any report or statement lodged with him under paragraph (2) above.

(5) Subject to the next following paragraphs the provisions of paragraphs (*h*), (*j*) and (*k*) of Rule 277 shall apply to the procedure thereafter as if any reference in those paragraphs to a party included a reference to the reporter and as if in paragraphs (*h*)(ii) and (*k*)(iii) there were omitted the words "and it may, if one party only has applied for a stated case, find him liable for payment to the other party of the sum of £5.5s. of expenses" and with any other necessary modifications.

(6) The reporter shall, within seven days after the date on which the case is, in accordance with Rule 277(*k*), lodged in the general department, deliver to the deputy principal clerk, the principal and ten copies of every report or statement which he was required by the sheriff to lodge again with the sheriff clerk under paragraph (2) above but no copy of any such report or statement shall be made available to any of the other parties except on the order of the court.

(7) The court may direct that all or any of the proceedings upon the stated case shall be heard in chambers.

(8) Subject to any order in that behalf made by the court, any reports or statements delivered to the deputy principal clerk under paragraph (6) of this Rule shall remain in his custody until the appeal is determined or abandoned and thereupon he shall return the said copies to the reporter.

(9) No expenses shall be awarded to or against any party in respect of any of the proceedings upon the stated case."

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

Edinburgh, *J. L. Clyde*
4th February, 1971. I.P.D.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session. It prescribes procedure for appeals by stated case under section 50 of the Social Work (Scotland) Act 1968 and makes provision for connected purposes.

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