# 1959 No. 1797 (S. 98)

## Act of Sederunt (Rules of Court Amendment No. 5) 1959

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| *Made* - - - - | *9th October*, 1959 |
| *Coming into Operation* | *9th October*, 1959 |

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), and of all other powers competent to them in that behalf do hereby enact as follows:—

1. The Rules of the Court of Session(b) shall be amended as follows:—

(1) After Rule 104 there shall be inserted the following Rule:—

"104A. *Intimation to Heritable Creditors.* In any action relating to heritage it shall not be necessary to call as a defender any person by reason only of any interest he may have as the holder of a heritable security over such heritage, but intimation of the action shall be made to such a person; and accordingly in such case the official printed form of summons shall be filled up so as to contain a warrant for such intimation in the following terms as nearly as may be:—

"Warrant to intimate to (name and address) as a person who is believed to be a heritable creditor of the defender";

"such warrant may be executed contemporaneously with, or after, the citation of the defender, by any messenger at arms, or by the pursuer's solicitor (being a solicitor entitled to practice in the Court of Session), by serving personally or by posting a registered letter addressed to such person and containing a copy of the summons with intimation subjoined in the terms as nearly as may be of Form 4A."

(2) After Form 4 there shall be inserted the following form:—

FORM 4A

*Form of Intimation to Heritable Creditor of Defender in action relating to heritage.*

Take notice that an action, a copy of the summons in which is pre-fixed thereto, has been raised against the defender as owner of land over which you are believed to hold a heritable security; and that you may if you so desire apply to the Court for leave to state defences to the action within fourteen days after the expiry of days from the date of service hereof (or if the warrant is executed contemporaneously with citation of the defender within fourteen days after the calling of the summons in Court which will not be earlier than days from the date of service hereof).

The date of service hereof is reckoned as commencing on the expiry of twenty-four hours after the date of posting hereof.

Dated this (insert date of posting)

(Signed) A.B.

Messenger at arms or solicitor.

(a) 23 & 24 Geo. 5. c. 41. (b) S.I. 1948/1691 (1948 I, p. 3778).

**2.** This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 5) 1959 and shall come into operation on 9th October, 1959.

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

*J. L. Clyde,*
I.P.D.

Edinburgh,
9th October, 1959.

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EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt but is intended to indicate its general purport.)*

This Act of Sederunt amends the Rules of Court by providing for intimation to heritable creditors in certain actions relating to the heritage, thereby obviating the necessity of their names appearing in the Register of Inhibitions and Adjudications.

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**FEES**

## 1959 No. 584 (S. 27)

# Act of Sederunt (Alteration of Court of Session Fees), 1959

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|---|---|
| *Made* - - - - | 10*th March*, 1959 |
| *Coming into Operation* | 10*th March*, 1959 |

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**), and of all other powers competent to them in that behalf, do hereby enact as follows :—

**1.** In undefended consistorial actions in which the pursuer has been throughout the whole of the proceedings an Assisted Person under the Legal Aid (Scotland) Act, 1949(**b**), the pursuer's solicitor may in his option either,—

(*a*) elect to charge an inclusive charge to cover all work, and including fees and outlays, from taking instructions up to and including obtaining extract decree. This inclusive charge shall be—

(i) where only an Edinburgh solicitor is engaged in the case £40, or

(ii) where the Legal Aid Certificate shows that both an Edinburgh solicitor and a solicitor outside Edinburgh are engaged in the case or where an official on behalf of the Legal Aid Supreme Court Committee of the Law Society of Scotland so certifies,—£52

and the Court shall grant decree accordingly

or

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(**a**) 23 & 24 Geo. 5. c. 41. (**b**) 12, 13 & 14 Geo. 6. c. 63.