SCOTTISH STATUTORY INSTRUMENTS

2015 No. 5

SHERIFF COURT

Act of Sederunt (Sheriff Court Adoption Rules Amendment) 2015

Made - - - -	*12th January 2015*
Laid before the Scottish Parliament	*14th January 2015*
Coming into force - -	*26th January 2015*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(**a**), sections 104 and 114 of the Adoption and Children (Scotland) Act 2007(**b**) and of all other powers enabling them in that behalf, having approved with such modifications as they think appropriate draft rules submitted to them by the Scottish Civil Justice Council in accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(**c**), do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Adoption Rules Amendment) 2015.

(2) It comes into force on 26th January 2015.

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

Amendment of the Sheriff Court Adoption Rules

2.—(1) The Sheriff Court Adoption Rules 2009 in the Schedule to the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009(**d**) are amended as follows.

(2) In rule 47 (confidentiality), at the end of paragraph (3) insert "and rule 51".

(3) In rule 51 (report of children's hearing)—

(a) for paragraph (1) substitute—

(**a**) 1971 c. 58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12; the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4); the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2); the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2); the Consumer Credit Act 2006 (c. 14), section 16(4); the Bankruptcy and Diligence (Scotland) Act 2007 (asp 3), section 33 and Schedule 5, paragraph 10 (in part); the Legal Services (Scotland) Act 2010 (asp 16), section 127(a); the Children's Hearings (Scotland) Act 2011 (asp 1) section 185; and the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), section 15(2).

(**b**) 2007 asp 4.

(**c**) 2013 asp 3.

(**d**) S.S.I. 2009/284, as amended by S.S.I. 2012/271, S.S.I. 2013/139, S.S.I. 2013/172 and S.S.I. 2014/302.

"(1) This rule applies where the sheriff is given a report from a children's hearing under section 95(2) of the 2007 Act.

(1A) The sheriff clerk shall lodge in the process of the application—

(a) the report, and

(b) where paragraph (1C) applies, the documents referred to in that paragraph.

(1B) Subject to paragraph (1D), the sheriff clerk shall send a copy of the report together with a notice in Form 23 to—

(a) the parties to the application;

(b) any relevant person in relation to the child; and

(c) such other person as the sheriff considers appropriate.

(1C) This paragraph, and paragraphs (1D) and (1E) apply where, pursuant to rule 77(7) of the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013(**a**), the sheriff is given, in addition to the report referred to in paragraph (1)—

(a) a redacted report, and

(b) details of the children's hearing's determination of a non-disclosure request.

(1D) The sheriff shall, having regard to the details referred to in paragraph (1C)(b), determine in respect of each person referred to in paragraph (1B) whether that person is to be sent a copy of the redacted report in place of a copy of the report, and paragraph (1B) shall apply accordingly.

(1E) Unless the sheriff otherwise directs, the report lodged in the process shall not be available to any person to whom a copy of the redacted report has been sent pursuant to paragraph (1D).".

(b) in paragraph (2), for "(1)(b)" substitute "(1B)".

BRIAN GILL
Lord President
I.P.D.

Edinburgh
12th January 2015

(**a**) S.S.I. 2013/194. Rule 77(7) is prospectively inserted (with effect from 26th January 2015) by the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2015, rule 7(2).

EXPLANATORY NOTE

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

This Act of Sederunt makes changes to the Sheriff Court Adoption Rules. The changes relate to the procedure to be followed where, in the course of proceedings under Part 2 of the Adoption and Children (Scotland) Act 2007 ("the 2007 Act"), the children's hearing prepares a report for the court in accordance with section 95 of the 2007 Act, and where, as a result of a non-disclosure request, the children's hearing has determined that the Reporter should give any person a redacted copy of the report.

Rule 51 of the Sheriff Court Adoption Rules is amended so that, in this situation, the sheriff is required to determine whether the copy of the report given to that person by the sheriff clerk should also be a redacted copy.

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