

## COURT OF SESSION

### PRACTICE NOTE

No. 3 of 2009

#### **Motions etc. intimated and enrolled by email**

1. This practice note has effect from 1st February 2010.
2. The purpose of this practice note is to provide guidance in respect of the procedure for intimating motions, or consent or opposition to motions, by email in accordance with Parts 2 and 4 of Chapter 23 of the Rules of the Court of Session.
3. An email address which is provided by a party or by an agent of a party for the purpose of receiving intimation of motions, or intimation of consent or opposition to motions, must be in regular use. The provision of the email address for this purpose should be made to the Deputy Principal Clerk of Session. Any declaration by an agent that they do not have suitable facilities for the purpose of transacting motion business should also be made, in writing, to the Deputy Principal Clerk of Session.
4. The Deputy Principal Clerk of Session will maintain a list of all email addresses provided for this purpose which will be published on the Scottish Court Service website. The Deputy Principal Clerk of Session will also maintain a separate list of those agents who have made a declaration that they do not have suitable facilities for the purpose of transacting motion business. That separate list will be published on the same website.
5. Where, in the case of an agent to a receiving party, the identity and separate email address of a fee earner or other person who is handling the matter for the agent is known, the enrolling party should send any intimation required under Part 2 of Chapter 23 of the Rules to that separate email address at the same time as sending it to the provided email address.
6. Where a party or an agent provides an email address for the purpose of transacting motion business, the same email address will be used for the purpose of sending interlocutors to that party or agent once a motion has been determined under the procedure contained in Part 2 of Chapter 23.
7. Where an unopposed motion is enrolled by email under rule 23.1F but the entry in the Rolls of Court in respect of that motion is starred, the motion will be allocated by the Keeper of the Rolls for a hearing before the Lord Ordinary in accordance with the procedure that applies in relation to an opposed motion.

8. Where a motion which is enrolled by email in accordance with Parts 2 and 4 of Chapter 23 refers to a document, or the court requires a document to be lodged with the motion, the document is to be attached to the motion in electronic form, using either "Word" or "pdf" format. Where such a document requires to be signed, a scanned signature will be acceptable.
9. Where any type of record or other document comprising 20 pages or fewer is attached to a motion enrolled by email in accordance with Parts 2 and 4 of Chapter 23, the necessary number of copies of that document will be printed at the court by court staff and lodged in the process of the action to which the motion relates.
10. Where any type of record or other document comprising more than 20 pages is attached to a motion enrolled by email in accordance with Parts 2 and 4 of Chapter 23, one copy of the document will be printed at the court by court staff and lodged in process. Any necessary additional copies of the document will require to be lodged by parties on the following court day.
11. Subject to paragraph 12, where a motion enrolled by email in accordance with Parts 2 and 4 of Chapter 23 refers to accompanying productions, only the inventory of productions should be sent by email. The inventory of productions will be printed at the court by court staff and lodged in process. The productions should then be lodged by the enrolling party on the following court day.
12. Where a motion is starred on the Rolls of Court, parties must lodge productions prior to the motion roll hearing where they are relevant to the hearing. For example, the relevant productions must be lodged where a motion is made to allow those productions to be lodged late.
13. Where a party enrolling a motion by email in accordance with Parts 2 and 4 of Chapter 23 claims a fee exemption, the appropriate fee exemption form shall be attached, in electronic form, to the motion. The fee exemption form will be printed at the court by court staff and lodged in process.
14. A party or an agent may amend or withdraw an email address provided for the purpose of transacting motion business by sending a notice in writing to the Deputy Principal Clerk of Session. Upon receipt of such a notice, the Deputy Principal Clerk of Session will arrange to amend the email address on the list published on the Scottish Court Service website or remove the email address from that list as soon as possible.
15. In the event of a failure of one or more electronic servers, resulting in delayed transmission or non-transmission of emails, the Court may treat a motion intimated or enrolled in writing or by facsimile transmission as

though it had been intimated or enrolled in accordance with Parts 2 and 4 of Chapter 23.

*A.C. HAMILTON*  
Lord President

Edinburgh  
5th November 2009