

Preliminary

CHAPTER 1

CITATION, APPLICATION ETC.

Citation

- 1.1. These Rules may be cited as the Rules of the Court of Session 1994.

Application

- 1.2. These Rules apply to any cause whether initiated before or after the coming into force of these Rules.

Interpretation etc.

- 1.3.- (1) In these Rules, unless the context otherwise requires-

"the Act of 1988" means the Court of Session Act 1988 (a);

"the Act of 2014" means the Courts Reform (Scotland) Act 2014.

"act" means an order of the court which is extractable, other than a decree; "agent", except in rule 16.2(2)(e) (service forth of United Kingdom by party's authorised agent) and rule 16.14(1) (arrestment of cargo), means a solicitor or person having a right to conduct the litigation; "the Auditor" means the Auditor of the Court of Session; "cause" means any proceedings; "clerk of court" means the clerk of session acting as such; "clerk of session" means a depute clerk of session or an assistant clerk of session, as the case may be; "counsel" means a practising member of the Faculty of Advocates; "depute clerk of session" means a depute clerk of session and justiciary; "Deputy Principal Clerk" means the Deputy Principal Clerk of Session; "document" has the meaning assigned to it in section 9 of the Civil Evidence (Scotland) Act 1988 (b); "the Extractor" means the Extractor of the Court of Session or the Extractor of the acts and decrees of the Teind Court, as the case may be; "Keeper of the Records" means the Keeper of the Records of Scotland; "Keeper of the Registers" means the Keeper of the Registers of Scotland; "other person having a right of audience" means a person having a right of audience before the court by virtue of Part II of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c) (legal services) in respect of the category and nature of the cause in question; "party" means a person who has entered appearance in an action or lodged a writ in the process of a cause (other than a minuter seeking leave to be sisted to a cause); and "parties" shall be construed accordingly; "period of notice" means-

- (a) in relation to service, or intimation on a warrant for intimation before calling, of a summons, the period determined in accordance with rule 13.4 (period of notice in summonses); and

- (b) in relation to service of any other writ, intimation of a writ other than intimation referred to in sub-paragraph (a), or the period for lodging answers to a writ, the period determined in accordance with rule 14.6 (period of notice for lodging answers);

"person having a right to conduct the litigation" means a person having a right to conduct litigation by virtue of Part II of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 in respect of the category and nature of the cause in question; "Principal Clerk" means the Principal Clerk of Session and Justiciary; "principal writ" means the writ by which a cause is initiated before the court; "proof" includes proof before answer; "rolls" means the lists of the business of the court issued from time to time by the Keeper of the Rolls; "send" includes deliver; and "sent" shall be construed accordingly; "simple procedure case" has the meaning given by section 72(9) of the Courts Reform (Scotland) Act 2014; "step of process" means a document lodged in process other than a production; "summons" includes the condescendence and pleas-in-law annexed to it; "vacation judge" means a judge of the court sitting as such in vacation; "writ" means summons, petition, note, application, appeal, minute, defences, answers, counter-claim, issue or counter-issue, as the case may be.

(a) 1988 c.36.

(b) 1988 c.32.

(c) 1990 c.40.

(2) for the purpose of these Rules-

(a) "affidavit" includes an affirmation and a statutory or other declaration; and

(b) an affidavit shall be sworn or affirmed before a notary public or any other competent authority.

(3) Where a power is conferred in these Rules on the Lord President to make directions, the power may be exercised in his absence by the Lord Justice-Clerk.

(4) Where a provision in these Rules imposes an obligation on a principal officer, the obligation may be performed by a clerk of session authorised by him or by another principal officer; and in this paragraph "principal officer" means the Principal Clerk, Deputy Principal Clerk, Deputy Principal Clerk (Administration), Keeper of the Rolls or Principal Extractor.

(5) Unless the context otherwise requires, where a provision in these Rules requires a party to intimate, give written intimation, or send a document, to another party, it shall be sufficient compliance with that provision if intimation is given or the document is sent, as the case may be, to the agent acting in the cause for that party.

(6) Unless the context otherwise requires, anything done or required to be done by a party under a provision in these Rules may be done by the agent for that party acting on his behalf.

(7) Where a provision in these Rules requires a document to be lodged in an office or department of the Office of Court within or not later than a specified period and the last day of that period is a day on which that office or department is closed, the period shall be extended to include the next day on which that office or department, as the case may be, is open or on such other day as may be specified in a notice published in the rolls.

(8) Unless the context otherwise requires, a reference to a specified Chapter, Part, rule or form is a reference to the Chapter, Part, rule, or the form in the appendix, so specified in these Rules; and a reference to a specified paragraph, sub-paragraph or head is a reference to that paragraph of the rule or form, that sub-paragraph of the paragraph or that head of the sub-paragraph, in which the reference occurs.

Forms

1.4. Where there is a reference to the use of a form in these Rules, that form in the appendix to these Rules, or a form substantially to the same effect, shall be used with such variation as circumstances may require.

Direction relating to the Advocate General

1.5. The Lord President may, by direction, specify such arrangements as he considers necessary for, or in connection with, the appearance in court of the Advocate General for Scotland.