

ORGANISATION: South Lanarkshire Council

**ADDRESS: COUNCIL BUILDINGS,
ALMADA STREET
HAMILTON
ML3 0AA**

CONSULTATION QUESTIONNAIRE

- 1. Do you agree or disagree that new rules should be made in respect of reporting restrictions? (Please tick as appropriate)**

Agree

Disagree

No Preference

Comments

- 2. Do you agree or disagree that the amendments in the draft rules be replicated in the existing rules for the sheriff court and for the criminal courts?**

Agree

Disagree

No Preference

Comments

Subject to the comments made under subsequent questions below, it would be appropriate that any amendments to the rules are replicated in the Sheriff Court and Criminal Court rules.

3. Which would you consider preferable: a standalone set of rules applicable across the Court of Session and sheriff court, or separate rules for each?

- It would be preferable to have a standalone set of rule applicable across the Court of Session and sheriff court
- It would be preferable for the Court of Session and the sheriff court to each have separate rules.
- No Preference

Comments

4. Do you consider that any particular or special provision would require to be made in respect of these matters in different types of court proceedings? Please give details.

- Agree
- Disagree
- No Preference

Comments

In the case of certain actions, for example family actions and actions under the Adults with Incapacity legislation, the rules should not be applied to automatically delay a court's decision for hearings to be held in closed court or anonymising published opinions, as such decisions may indirectly restrict reporting of proceedings.

5. Do you agree or disagree with the approach adopted in rule 102.1, i.e. that the rules apply to “orders which restrict the reporting of proceedings”? If you disagree, please give reasons for your answer.

Agree

Disagree

No Preference

Comments

It is considered that a clearer definition specifying those orders to which the Rule will apply should be provided in the rules. For example, it is unclear whether the application of the Rule would extend to any decision by a Court to hear evidence in closed court where the subject matter of the action necessitates this.

If the rule is to extend to such decisions of the court, it is considered that unnecessary delays to important and time sensitive business of the court would result from the present wording of the draft rules.

6. Do you consider the 48 hour period for making representations to the court under rule 102.3 to be appropriate? Please give reasons.

Yes

No

No Preference

Comments

Subject to the comments above regarding the scope of the rules.

7. If you answered “no” to question 6, what alternative period do you consider would be appropriate?

Comments

8. Do you agree or disagree with the terms of rule 102.4 in respect of non-notification? Please give reasons for your answer.

Agree Disagree No Preference

Comments

It is noted that the Draft Instrument refers to rules 104.2 and 104.3 rather than 102.2 and 102.3. It is assumed that this is an error and on that assumption, and correction of that error, the answer above is given.

9. Do you have any other comments on the proposals contained in this paper?

Yes

No

Comments

Under proposed Rule 102.2(2) it is not specified what form the notification will take. To enable the 48 hour period required by 102.3 to be calculated, it is considered that this should be clarified in the Rule.

Under proposed Rule 102.2(3) it is unclear who will be responsible for preparation of the note to accompany the draft order. If a party to the action is seeking an order, are they responsible for preparation of such a note or is it the responsibility of the clerk to prepare such a note?