

Form 26A.8

Rule 26A.8(1) or (2)

**Form of application under section 20(3)(b) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 seeking the replacement of a representative party**

UNTO THE RIGHT HONOURABLE THE LORDS OF COUNCIL AND SESSION

IN THE COURT OF SESSION

APPLICATION

in the cause (Cause Reference No.        )

for

REPLACEMENT OF A REPRESENTATIVE PARTY

under section 20(3)(b) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018

by

[A.B.], [Representative Party] [Group Member] (*full name, designation and address*)

Applicant

HUMBLY SHEWETH:-

1. The applicant, (*insert full name, designation and address of the applicant*), was authorised by the court to be a representative party to bring group proceedings on behalf of (*insert details, in brief, of the group of two or more persons*), each of whom has a separate claim which may be the subject of civil proceedings, on (*insert date*). The applicant applies, under section 20(3)(b) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (“the Act”), seeking the authority of the court to withdraw as the representative party in those group proceedings and be replaced with another person (“Person A”) (*insert full name, designation and address of Person A*).

*or*

The representative party, *(insert full name, designation and address of the representative party)*, was authorised by the court to be a representative party to bring group proceedings on behalf of *(insert details, in brief, of the group of two or more persons)*, each of whom has a separate claim which may be the subject of civil proceedings, on *(insert date)*. The applicant, *(insert full name, designation and address of the applicant)*, applies under section 20(3)(b) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (“the Act”), for authorisation by the court to appoint Person A *(insert full name, designation and address of Person A)* as a representative party to bring group proceedings on behalf of *(insert details, in brief, of the group of two or more persons)* in place of the representative party.

2. Person A *(insert full name)* *[is a member of the group of persons on whose behalf proceedings are to be brought [have been brought]] [is not a member of the group of persons on whose behalf proceedings are to be brought [have been brought]]. [(In the event that Person A is not a member of the group on whose behalf proceedings are to be brought or have been brought) Person A is (insert the capacity in which Person A may be, or is applying to be, a representative party).]*

3. The applicant can no longer act as the representative party in the group proceedings and, accordingly, seeks the authorisation of the court to withdraw and be replaced as the representative party by Person A for the following reasons:—

*(insert detailed reasons as to why the applicant can no longer act as the representative party in the group proceedings).*

*or*

The applicant seeks the authority of the court to appoint Person A to bring the group proceedings in place of the representative party *(insert full name of the representative party)* for the following reasons:—

*(insert detailed reasons as to why the court should authorise the replacement of the representative party with Person A).*

4. Person A *(insert full name)* is a suitable *[person who] [body which]* can act in the capacity of representative person should such authorisation be given, having regard to the matters mentioned in rule 26A.7(2), for the following reasons:—

*(insert a full and detailed note to include the following:—*

*the special abilities and relevant expertise of Person A;*

*Person A’s own interest in the proceedings;*

*whether there would be any potential benefit to Person A, financial or otherwise, should the application be authorised;*

*confirmation that Person A is independent from the defender;*

*a demonstration that Person A would act fairly and adequately in the interests of the group members as a whole, and that Person A's own interests do not conflict with those of the group whom Person A seeks to represent;*

*a demonstration of sufficient competence by Person A, including financial resources, to litigate the claims properly, and to meet any expenses awards (the details of funding arrangements do not require to be disclosed)).*

5. Person A (*insert full name*) [*has*] [*has not*] previously applied to the court for such authorisation relating, to any extent, to the same matter. [*Where any such previous application has been made, insert details (including, in particular, the outcome of such application)*].

MAY IT THEREFORE please your  
Lordships to make an order authorising  
[Person A] to be a Representative Party

According to Justice, etc.

*(Signed)*

Representative Party [Applicant]

[*or* Solicitor [*or* Agent] for Representative  
Party [Applicant (*insert full name*)]]

*(Date)*