

## CHAPTER 78

### SPECIAL CASES UNDER SECTION 27 OF THE COURT OF SESSION ACT 1988

#### Application of this Chapter

**78.1.** This Chapter applies to a special case under section 27 of the Act of 1988.

#### Lodging and hearing of special case

**78.2.**-(1) A special case shall be lodged with a process in the General Department.

(2) A special case shall, without appearance, be put out for hearing in the Summar Roll before the Inner House.

#### Amendment of case

**78.3.**-(1) A special case may be amended by consent of the parties.

(2) Where parties seek to amend a special case, any one of them may apply by motion for leave to amend of consent.

#### Appointment of curator ad litem to party incapax

**78.4.**-(1) Where a party to a special case is incapax by reason of nonage, insanity or otherwise, it shall be the duty of the other parties (which duty may be performed by any of them), on the lodging of the special case under rule 78.2(1), to apply by motion for the appointment of a curator *ad litem* to such incapax.

(2) A curator *ad litem* appointed under paragraph (1) shall be given all necessary information and facilities by the other parties to enable him to perform his duties.

(3) Where a curator *ad litem* is satisfied that the special case is fully and accurately stated in relation to the interests of the incapax, he may sign it as curator *ad litem*.

(4) Where a curator *ad litem* is not given all necessary information and facilities by the other parties, or is not satisfied that the special case is fully and accurately stated in relation to the interest of the incapax, he shall report the position to the Inner House which may then recall his appointment and dispose of the special case as it thinks fit.

(5) An award of expenses-

- (a) may not be made against a curator ad litem ; and
- (b) may be made in favour of a curator ad litem as the court thinks fit.