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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 408**

**SHERIFF COURT**

**Act of Sederunt (Ordinary Cause Rules) Amendment  
(No. 2) (Pension Sharing on Divorce etc.) 2000**

*Made* - - - - *16th November 2000*

*Coming into force* - - *1st December 2000*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(1), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Ordinary Cause Rules) Amendment (No. 2) (Pension Sharing on Divorce etc.) 2000 and shall come into force on 1st December 2000.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

**Amendment of Ordinary Cause Rules 1993**

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(2) shall be amended in accordance with the following paragraphs.

(2) In Chapter 33 (family actions)—

(a) at the end of rule 33.7(1)(k), for “, and” substitute “;”; and

(b) in rule 33.7(1)(l)—

(i) for “trustees or managers of the pension scheme” substitute “person responsible for the pension arrangement”; and

(ii) insert at the end—

“; and

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(1) 1971 c. 58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12, by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4), and by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2).  
(2) 1907 c. 51; Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445 and by S.S.I. 2000/239.

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- (m) in an action where a pursuer makes an application for an order under section 8(1)(baa) of the Act of 1985 (pension sharing orders), to the person responsible for the pension arrangement and a notice of intimation in Form F12B shall be attached to the initial writ intimated to any such person.”.
- (3) In Appendix 1 (forms)–
- (a) in the heading of Form F12A, for “trustees or managers of pension scheme” substitute “person responsible for pension arrangement”; and
  - (b) after Form F12A insert the form set out in the Schedule to this Act of Sederunt.

Edinburgh  
16th November 2000

*Rodger of Earlsferry*  
Lord President, I.P.D.

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SCHEDULE

Paragraph 2(3)(b)

FORM F12B Form of intimation to person responsible for the pension arrangement in relation to pension sharing order under section 8(1)(baa) of the Family Law (Scotland) Act 1985.

Rule 33.7(1)(m)

Court ref. no.

To *(insert name and address as in warrant)*

You are given NOTICE that in this action the pursuer has applied under section 8 of the Family Law (Scotland) Act 1985 for a pension sharing order in circumstances where the matrimonial property includes rights in a pension scheme. The relevant pension scheme is *(give brief details, including number, if known)*. If you wish to apply to appear as a party, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)* for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given, N.B. rule 5.3(2) relating to postal service or intimation.)*

Date *(insert date)*

*(Signed)*

Solicitor for the pursuer

*(add designation and business address)*

**NOTE:**

If you decide to lodge a minute it may be in your best interests to consult a solicitor. The minute should be lodged with the sheriff clerk together with the appropriate fee of *(insert amount)* and a copy of this intimation.

**IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE** you should consult a solicitor. You may be entitled to legal aid depending on your financial circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens Advice Bureau or other advice agency.

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**EXPLANATORY NOTE**

*(This note is not part of the Act of Sederunt)*

This Act of Sederunt amends the Ordinary Cause Rules (“the Rules”) to support applications for pension sharing orders on divorce.

The Act of Sederunt makes the following amendments to the Rules:–

- (a) inserts rule 33.7(1)(m), which provides for application to be made under section 8 of the Family Law (Scotland) Act 1985 (“the 1985 Act”) for a pension sharing order (paragraph 2(2)(b)(ii)). The provisions relating to pension sharing orders were inserted into the 1985 Act by section 20 of and Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) (“the 1999 Act”);

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- (b) inserts Form F12B, in which intimation is to be made on the person responsible for the pension arrangement in respect of which an order in terms of rule 33.7(1)(m) is sought, into Appendix 1 (paragraph 2(3)(b)); and
- (c) makes minor amendment to the wording in rule 33.7(1)(l) and Form F12A for application for and intimation of an order under section 12A of the 1985 Act to reflect changes in terminology made to that section by the 1999 Act (Schedule 12) (paragraphs 2(2)(b)(i) and 2(3)(a)).