

2000 No. 412

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session Amendment
No. 7) (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 on them by section 5 of the Court of Session Act 1988(a) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 7) (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 the Rules of the Court of Session

2.—(1) The Rules of the Court of Session 1994(b) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 49.8 (warrants for intimation in family actions)—

(a) in paragraph (1), for sub-paragraph (l) there shall be substituted—

“(l) in an action where the pursuer makes an application for an order under—

(i) section 8(1)(ba) of the Act of 1985 (orders under s.12A of the Act of 1985 for pension lump sum), or

(ii) section 8(1)(baa) of that Act (pension sharing orders),

to the person responsible for the pension arrangement, in the following terms “Warrant to intimate to (*name and address*) as the person responsible for the pension arrangement in respect of which an order is sought in the (*number*) conclusion of this summons.”;

(b) in paragraph (3), for sub-paragraph (m) there shall be substituted—

“(m) under—

(i) paragraph (1)(l)(i) (orders for pension lump sums), in Form 49.8-M; and

(ii) paragraph (1)(l)(ii) (pension sharing orders), in Form 49.8-MA.

(3) In rule 49.49 (applications relating to orders for financial provision), in paragraph (3)(b) for “trustees or managers” there shall be substituted “person responsible for the pension arrangement”.

(4) In rule 49.53 (applications for financial provision after overseas divorce or annulment), in paragraph (4)(b) for “trustees or managers” there shall be substituted “person responsible for the pension arrangement”.

(a) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c.32, section 2(3) and by the Children (Scotland) Act 1995 c.36, Schedule 4, paragraph 45.

(b) S.I. 1994/1443 as amended. The relevant amendments are the insertion by S.I. 1996/1756, paragraph 2, of rules 49.8(1)(l) and (3)(m), 49.49(3) and 49.53(4) and of Form 49.8-M in the Appendix.

- (5) In the Appendix–
- (a) in Form 49.8-M–
 - (i) in the heading, for “trustees or managers of” there shall be substituted “person responsible for”; and
 - (ii) for “scheme”, in each place where it appears, there shall be substituted “arrangement”; and
 - (b) after Form 49.8-M there shall be inserted as Form 49.8-MA the form in the Schedule to this Act of Sederunt.

Rodger of Earlsferry
Lord President
I.P.D.

Edinburgh
16th November 2000

SCHEDULE

FORM 49.8-MA

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

Date: *(date of posting or other method of intimation).*

To: *(name and address as in warrant for intimation).*

TAKE NOTICE

(Pursuer's name and address), pursuer, has brought an action against *(defender's name and address)*, defender, in the Court of Session, Edinburgh. A copy of the summons in the action is attached. The pursuer has applied for a pension sharing order under section 8(1)(baa) of the Family Law (Scotland) Act 1985. The relevant pension arrangement is *(insert details, including number, if known)*.

You may apply to the court by minute to become a party to the action. You must do so at the Office of Court, Court of Session, 2 Parliament Square, Edinburgh EH1 1RQ within [21] days after the date of intimation to you of the summons [*or if the warrant for intimation is executed before calling of the summons*, within seven days after the summons calls in court. The summons will not call in court earlier than [21] days after the date of intimation to you of the summons]. The date of intimation is the date stated at the top of this notice unless intimation has been made by post in which case the date of intimation is the day after that date.

IF YOU ARE UNCERTAIN ABOUT THE EFFECT OF THIS NOTICE, you should consult a solicitor, Citizens Advice Bureau or other local advice agency or adviser immediately.

(Signed)
Messenger-at-Arms
[*or Solicitor [or Agent] for pursuer*]
(Address)

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994 to support applications for pension sharing orders on divorce and makes other technical amendments. The amendments made to the 1994 Rules are as follows—

- (a) paragraph 2(2) amends rule 49.8 to make provision for intimation of applications under section 8(1)(baa) of the Family Law Scotland Act 1995 (“the 1985 Act”) for a pension sharing order on divorce; section 8(1)(baa) and related interpretation provisions on pension sharing orders in this Act were inserted by the Welfare Reform and Pensions Act 1999, c.30, (“the 1999 Act”) section 20 and Schedule 12;
- (b) paragraph 2(5)(b) makes provision for a new form (Form 49.8-MA) to be used for such intimation;
- (c) paragraph 2(3), (4) and 5(a) makes minor amendments to rules 49.49 and 49.53 and related Form 49.8-M (intimation of application for an order for a pension lump sum under section 12A of the 1985 Act) to reflect changes in terminology made to that section by the 1999 Act (Schedule 12).

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