
EXPLANATORY NOTE

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

This Act of Sederunt amends the Ordinary Cause Rules and the Summary Applications Rules so as to regulate proceedings in which an order under section 2 of the Mortgage Rights (Scotland) Act 2001 (“the 2001 Act”) may be applied for by a defender (being applications under section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 and proceedings under section 5 of the Heritable Securities (Scotland) Act 1894).

The Ordinary Cause Rules are amended as follows:–

- (a) Rule 3.2 is amended by inserting a new provision requiring the initial writ in a relevant action to include averments about those persons who appear to the pursuer to be entitled to apply for such an order and requiring such persons so far as known to the pursuer to be called as defenders for their interest (paragraph 2(2)).
- (b) Rule 3.3 is amended so that the warrant of citation in a relevant action is in a particular form (form O2A) (paragraph 2(3)).
- (c) Rule 5.2 is amended so that the form of citation in a relevant action is in a particular form (form O5A) (paragraph 2(4)).
- (d) A new rule 34.12 is inserted to provide a procedure to be followed when a person wishes to apply for an order under section 2 of the 2001 Act (paragraph 2(5)).
- (e) Paragraph 2(6) inserts the new forms O2A and O5A. It also substitutes the form of certificate of citation in an action (form O6) with a new form that includes a reference to the sending of a form O2A.

The Summary Applications Rules are amended as follows:–

- (a) Rule 2.7 is amended so that the warrant and form of citation in a relevant action are in particular forms (forms 6A and 6B) (paragraph 3(2)).
- (b) A new rule 22.2A is inserted so as to provide a procedure to be followed when a person wishes to apply for an order under section 2 of the 2001 Act (paragraph 3(3)).
- (c) Paragraph 3(4) inserts the new forms 6A and 6B. It also substitutes the form of certificate of citation in an application (form 7) with a new form that includes a reference to the sending of a form 6B.