

2003 No. 25

SHERIFF COURT

Act of Sederunt (Ordinary Cause Rules) Amendment (Form of Simplified Divorce Application) 2003

Made

17th January 2003

Coming into force

31st January 2003

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a) 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 Sheriff Courts (Scotland) Act 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 (Form of Simplified Divorce Application) 2003, and shall come into force on 31st January 2003.

(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(b) shall be amended in accordance with the following paragraph, and any reference to an appendix or form means the appendix or form so numbered in that Schedule.

(2) In appendix 1 (forms)—

- (a) in form F31, in part 1 in section 3 (jurisdiction) for parts A and B substitute parts A, B and C as set out in the Schedule to this Act of Sederunt; and
- (b) in form F33, in part 1—
 - (i) in section 5 (Children of the Marriage) delete “5.”;
 - (ii) in section 6 (jurisdiction) for Parts A and B substitute Parts A, B and C as set out in the Schedule to this Act of Sederunt; and

(a) 1971 c.58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 13, and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43, and was extended by sections 39(2) and 49 of the Child Support Act 1991 (c.48).

(b) 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 and 408, 2001/8 and 144, and 2002/7 and 128 and 560.

(iii) renumber sections 6 to 13 as sections 5 to 12.

Edinburgh
17th January 2003

W DOUGLAS CULLEN
Lord President
I.P.D.

SCHEDULE
AMENDMENTS TO FORMS F31 AND F33

PART A

- (i) My spouse and I are habitually resident in Scotland
- (ii) My spouse and I were last habitually resident in Scotland, and one of us still resides there
- (iii) My spouse is habitually resident in Scotland
- (iv) I am habitually resident in Scotland having resided there for at least a year immediately before this application was made
- (v) I am habitually resident in Scotland having resided there for at least six months immediately before this application was made and am domiciled in Scotland
- (vi) My spouse and I are domiciled in Scotland

Part B applies where the defender is not a national of a Contracting State (other than the UK or Ireland) or domiciled in Ireland

PART B

- (i) I consider myself to be domiciled in Scotland
- (ii) My spouse considers himself or herself to be domiciled in Scotland

AND

- (iii) No court of a Contracting State has jurisdiction under the Council Regulation

PART C

- (i) I have lived at the address shown above for at least 40 days immediately before the date I signed this application
- (ii) My spouse has lived at the address shown above for at least 40 days immediately before the date I signed this application

EXPLANATORY NOTE

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

This Act of Sederunt amends the Ordinary Cause Rules of the sheriff court by amending the jurisdiction sections of the forms of simplified divorce application (Forms F31 and F33) in light of the changes to jurisdiction in divorce actions brought about by—

- (a) the common rules on jurisdiction in matrimonial matters laid down in Council Regulation (EC) No 1347/2000 of 29th May 2000 on jurisdiction and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses; and
- (b) the consequential amendments made to the Domicile and Matrimonial Proceedings Act 1973 (c.45) by the European Communities (Matrimonial Jurisdiction and Judgments) (Scotland) Regulations 2001 (S.S.I. 2001/36).

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