
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 365

Act of Sederunt (Child Support Rules) (Amendment) 2009

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Child Support Rules) (Amendment) 2009 and comes into force on 11th November 2009.

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

Amendment of the Child Support Rules

2.—(1) The Act of Sederunt (Child Support Rules) 1993(1) is amended in accordance with the following subparagraphs.

(2) In paragraph (3) of rule 1 (interpretation)—

(a) after the definition of “the Act of 1991” insert—

““the Commission” means the Child Maintenance and Enforcement Commission;”;

(b) after the definition of “liable person” insert—

““lump sum deduction order” means an order under section 32F of the Act of 1991(2); and

“regular deduction order” means an order under section 32A of the Act of 1991(3).”.

(3) In paragraph (1) of rule 2 (application for a liability order)(4)—

(a) for “Secretary of State” substitute “Commission”;

(b) omit “, and rule 3 of the Ordinary Cause Rules of the sheriff court shall not apply to such an application”.

(4) In rule 5 (appeal against a deduction from earnings order)(5)—

(a) in paragraph (1) omit “, and rule 3 and Form A1 of the Ordinary Cause Rules of the sheriff court shall not apply to such an appeal”;

(b) in paragraph (2)(b) for “Secretary of State” substitute “Commission”;

(c) after paragraph (2) insert—

“(3) The sheriff may order intimation of the application to such persons as appear to the sheriff to have an interest in the application.”.

(5) After rule 5 insert—

(1) S.I. 1993/920, amended by S.S.I. 2001/143.

(2) Section 32F was inserted into the Child Support Act 1991 by section 23 of the Child Maintenance and Other Payments Act 2008 (c.6).

(3) Section 32A was inserted by section 22 of the Child Maintenance and Other Payments Act 2008.

(4) Rule 2 was amended by S.S.I. 2001/143.

(5) Rule 5 was amended by S.S.I. 2001/143.

“Deduction from earnings order: exclusion decision appeals

5AA.—(1) An appeal against a decision by the Commission that, in relation to a deduction from earnings order, the exclusion in section 29(4)(a) of the Act of 1991(6) does not apply, as provided for in regulations made under section 29(4)(b) of the Act of 1991, shall be by summary application in Form 5AA.

(2) The sheriff clerk, on receiving an application under paragraph (1) above, shall—

- (a) fix a date for the hearing of the appeal; and
- (b) order service of the application on the Commission.

(3) The sheriff may order intimation of the application to such persons as appear to the sheriff to have an interest in the application.

Regular deduction order: appeals

5AB.—(1) An appeal against a regular deduction order or against any decision made by the Commission on an application for a review of such an order, as provided for in regulations made under section 32C(4) of the Act of 1991(7), shall be by summary application in Form 5AB.

(2) The sheriff clerk, on receiving an application under paragraph (1) above, shall—

- (a) fix a date for the hearing of the appeal; and
- (b) order service of the application on the Commission.

(3) The sheriff may order intimation of the application to such persons as appear to the sheriff to have an interest in the application.

Lump sum deduction order: appeals

5AC.—(1) An appeal against the withholding of consent by the Commission in relation to a lump sum deduction order, as provided for in regulations made under section 32I(4) of the Act of 1991(8), shall be by summary application in Form 5AC.

(2) An appeal against the making of a lump sum deduction order as provided for in regulations made under section 32J(5) of the Act of 1991(9) shall be by summary application in Form 5AD.

(3) The sheriff clerk, on receiving an application under paragraph (1) or (2) above, shall—

- (a) fix a date for the hearing of the appeal; and
- (b) order service of the application on the Commission.

(4) The sheriff may order intimation of the application to such persons as appear to the sheriff to have an interest in the application.”.

(6) For “Secretary of State” or, as the case may be, “Secretary of State for Social Security”, in every place where those expressions appear in Forms 1, 3, 4, 5, 6, 9 and 10 substitute “Child Maintenance and Enforcement Commission”.

(7) After Form 5 in the Schedule, insert the forms set out in the Schedule to this Act of Sederunt.

(6) Paragraph (4) of section 29 was inserted by section 20 of the Child Maintenance and Other Payments Act 2008 (c.6).

(7) Section 32C was inserted by section 22 of the Child Maintenance and Other Payments Act 2008.

(8) Section 32I was inserted by section 23 of the Child Maintenance and Other Payments Act 2008.

(9) Section 32J was inserted by section 23 of the Child Maintenance and Other Payments Act 2008.

Saving provision

3. The Act of Sederunt (Child Support Rules) 1993 as it applied immediately before 11th November 2009 continues to have effect for the purpose of any legal proceedings continuing or brought against the Secretary of State by virtue of paragraph 55 of Schedule 3 to the Child Maintenance and Other Payments Act 2008(10).

Edinburgh
22nd October 2009

A.C. HAMILTON
Lord President
I.P.D.