
EXPLANATORY NOTE

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

This Act of Sederunt inserts new rules into the Ordinary Cause Rules and Adoption Rules to provide for enhanced judicial case management in certain cases. The majority of these changes are being made to address some of the concerns raised by the Supreme Court in *NJDB v JEG and another* [2012] UKSC 21 and *ANS and another v ML* [2012] UKSC 30.

Paragraph 2 inserts new Chapter 33AA into the Ordinary Cause Rules. The new Chapter applies where a cause is proceeding to proof or proof before answer in respect of a crave for an order under section 11 of the Children (Scotland) Act 1995.

In such cases a case management hearing will now be fixed in accordance with rule 33AA.2. New rule 33AA.4 sets out the matters to be addressed at the case management hearing; in general terms the purpose of the case management hearing is to allow the sheriff to understand the scope of the case and draw out any issues that may affect the conduct of the proof [or proof before answer]. Based on the information provided at the case management hearing the sheriff will fix a diet for proof or a proof before answer, which diet will only be extended or varied on exceptional cause shown.

New rule 33AA.3 provides that in advance of the case management hearing parties are required to hold a pre-hearing conference to discuss settlement, agree matters not in dispute and discuss the information that the sheriff will require at the case management hearing. The pursuer is required to lodge a joint minute of the pre-hearing conference in advance of the case management hearing, or explain to the sheriff why such a minute has not been lodged.

Paragraph 3 amends Chapter 2 of the Schedule to the Adoption Rules in respect of adoption orders to provide for enhanced judicial case management at the preliminary hearing and pre-proof hearing in similar terms to what is being provided in the Ordinary Cause Rules.

Paragraph 4 amends Chapter 4 of the Schedule to the Adoption Rules in similar terms in respect of permanence orders.

Paragraph 5 provides for new forms of service copy petitions in respect of applications for orders under section 29, 30, 59(1) or 80 of the Adoption and Children (Scotland) Act 2007. The new forms have been designed to alleviate concerns that birth parents are currently receiving unnecessarily detailed personal information about applicants.

Paragraph 6 contains a transitional and saving provision.

This Act of Sederunt comes into force on 3rd June 2013.