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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 291**

**Act of Sederunt (Rules of the Court of Session and Sheriff Court Rules Amendment No. 2) (Miscellaneous) 2014**

**Citation, commencement and interpretation**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session and Sheriff Court Rules Amendment No.2) (Miscellaneous) 2014.

(2) It comes into force on 8th December 2014.

(3) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(4) In this Act of Sederunt—

“the Ordinary Cause Rules” means the Ordinary Cause Rules 1993 in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(1);

“the Rules of the Court of Session” means the Rules of the Court of Session 1994 in Schedule 2 to the Act of Sederunt (Rules of the Court of Session 1994) 1994(2);

“the Small Claim Rules” means the Small Claim Rules in Schedule 1 to the Act of Sederunt (Small Claims Rules) 2002(3);

“the Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(4).

**Amendment of the Rules of the Court of Session**

2.—(1) The Rules of the Court of Session are amended in accordance with the following subparagraphs.

(2) After rule 14A.4(1) (recall etc. of arrestment or inhibition)(5), insert—

“(1A) A motion under paragraph (1) shall—

(a) specify the name and address of each of the parties;

(b) where it relates to an inhibition, contain a description of the inhibition including the date of registration in the Register of Inhibitions and Adjudications.”.

(3) For rule 47.9(1A) (withdrawal of action from Commercial Roll)(6), substitute—

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(1) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445; S.S.I. 2000/239 and 408; 2001/8 and 144; 2002/7, 128 and 560; 2003/25, 26 and 601; 2004/197 and 350; 2005/20, 189, 638 and 648; 2006/198, 207, 293, 410 and 509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 284, 285, 294 and 402; 2010/120, 279, 324, 340 and 416; 2011/193, 289 and 386; 2012/188, 221 and 27; and 2013/91, 135, 139 and 172; 2014/152 and 201.

(2) 1994 S.I. 1994/1443, last amended by S.S.I. 2014/201.

(3) S.S.I. 2002/133, amended by S.S.I. 2003/26; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 008/223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; 2011/193; 2012/271; and 2013/191.

(4) S.S.I. 2002/132, amended by S.S.I. 2002/516; 2003/26 and 601; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164 and 294; 2010/279, 340 and 416; 2011/193 and 289; 2012/144, 188 and 271; 2013/135 and 171; and 2014/152.

(5) Rule 14A.4 was inserted by S.S.I. 2008/122.

(6) Rule 47.9(1A) was inserted by S.S.I. 2000/66.

“(1A) At any time before or at the preliminary hearing the commercial judge may, on the motion of a party, if he is satisfied that the action is not a commercial action, withdraw it from the Commercial Roll and appoint it to proceed as an ordinary action.”.

(4) After rule 47.9(2), insert—

“(3) At any time the commercial judge may, at his own instance, after hearing the parties to the action, if he is satisfied that it is not appropriate for the action to remain on the Commercial Roll, withdraw it from the Commercial Roll and appoint it to proceed as an ordinary action.

(5) After Chapter 104 (Justice and Security Act)(7), insert—

## “CHAPTER 105 LAND REGISTRATION ETC.

### **Interpretation of this Chapter**

**105.1.** In this Chapter—

“the 2012 Act” means the Land Registration etc. (Scotland) Act 2012(8);

“plot of land” has the meaning given by section 3(4) and (5) of the 2012 Act;

“proprietor” has the meaning given by section 113(1) of the 2012 Act.

### **Applications under Part 6 of the 2012 Act**

**105.2.**—(1) An application under section 67(2) (warrant to place a caveat) of the 2012 Act shall be made by motion.

(2) The motion shall—

(a) identify, by reference to section 67(1) of the 2012 Act, the type of civil proceedings constituted by the cause;

(b) in respect of each plot of land, contain—

(i) a description of the registered plot of land;

(ii) the title number; and

(iii) the name and address of the proprietor;

(c) where the caveat is to apply only to part of a plot of land, be accompanied by a plan indicating the part so affected.

(3) An application under the following provisions of the 2012 Act shall be made by motion—

(a) section 69(1) (renewal of caveat);

(b) section 70(1) (restriction of caveat);

(c) section 71(1) (recall of caveat).

### **Form of orders under Part 6 of the 2012 Act**

**105.3.**—(1) An order under section 67(3) or 69(2) of the 2012 Act shall be in Form 105.3-A.

(2) An order under section 70(2) of the 2012 Act shall be in Form 105.3-B.

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(7) Chapter 104 was inserted by S.S.I. 2013/238.

(8) 2012 asp 5, amended by S.I. 2013/1575; 2014 c.14; and S.S.I. 2014/190.

- (3) An order under section 71(2) of the 2012 Act shall be in Form 105.3-C.

#### **Effect of warrant to place or renew caveat**

**105.4.** A certified copy of the order in Form 105.3-A may be registered in the Registers of Inhibitions and Adjudications.

#### **Form of decree of reduction**

**105.5.** Where a deed mentioned in section 46A(2) of the Conveyancing (Scotland) Act 1924(9) is reduced, the decree of reduction shall be in Form 105.5.

#### **Form of order for rectification of a document**

**105.6.** An order for rectification under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985(10) in respect of a document which has been registered in the Land Register of Scotland shall be in Form 105.6.”.

(6) In the Appendix, after Form 97.12 (form of intimation of hearing of application for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008), insert the Forms set out in Schedule 1 to this Act of Sederunt.

#### **Amendment of the Ordinary Cause Rules**

- 3.—**(1) The Ordinary Cause Rules are amended in accordance with the following subparagraphs.
- (2) In rule 6.A4(1) (recall etc. of arrestment or inhibition)(11)—
- (a) the existing rule becomes paragraph (1);
  - (b) after paragraph (1), insert—
    - “(2) A motion under paragraph (1) shall—
    - (a) specify the name and address of each of the parties;
    - (b) where it relates to an inhibition, contain a description of the inhibition including the date of registration in the Register of Inhibitions and Adjudications.”.
- (3) After Chapter 50 (lodging audio or audio-visual recordings of children)(12), insert—

## **“CHAPTER 51**

### **LAND REGISTRATION ETC.**

#### **Interpretation of this Chapter**

**51.1.** In this Chapter—

“the 2012 Act” means the Land Registration etc. (Scotland) Act 2012(13);

“plot of land” has the meaning given by section 3(4) and (5) of the 2012 Act;

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(9) 1924 c.27. Section 46A is prospectively inserted (from 8 December 2014) by the Land Registration etc. (Scotland) Act 2012 (asp 5), section 54.

(10) 1985 c.73. Section 8 is prospectively amended (from 8 December 2014) by the Land Registration etc. (Scotland) Act 2012 (asp 5), section 55 and schedule 5, paragraph 30.

(11) Rule 6.A4 was inserted by S.S.I. 2008/121.

(12) Chapter 50 was inserted by S.S.I. 2012/271.

(13) 2012 asp 5, amended by S.I. 2013/1575; 2014 c.14; and S.S.I. 2014/190.

“proprietor” has the meaning given by section 113(1) of the 2012 Act.

### **Applications under Part 6 of the 2012 Act**

**51.2.**—(1) An application under section 67(2) (warrant to place a caveat) of the 2012 Act shall be made by motion.

(2) The motion shall—

- (a) identify, by reference to section 67(1) of the 2012 Act, the type of civil proceedings constituted by the action;
- (b) in respect of each plot of land, contain—
  - (i) a description of the registered plot of land;
  - (ii) the title number; and
  - (iii) the name and address of the proprietor;
- (c) where the caveat is to apply only to part of a plot of land, be accompanied by a plan indicating the part so affected.

(3) An application under the following provisions of the 2012 Act shall be made by motion—

- (a) section 69(1) (renewal of caveat);
- (b) section 70(1) (restriction of caveat);
- (c) section 71(1) (recall of caveat).

### **Form of orders under Part 6 of the 2012 Act**

**51.3.**—(1) An order under section 67(3) or 69(2) of the 2012 Act shall be in Form 51.3-A.

(2) An order under section 70(2) of the 2012 Act shall be in Form 51.3-B.

(3) An order under section 71(2) of the 2012 Act shall be in Form 51.3-C.

### **Effect of warrant to place or renew caveat**

**51.4.** A certified copy of an order in Form 51.3-A may be registered in the Register of Inhibitions and Adjudications.

### **Form of order for rectification of a document**

**51.5.** An order for rectification under section 8 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985<sup>(14)</sup> in respect of a document which has been registered in the Land Register of Scotland shall be in Form 51.5.<sup>15</sup>.

(4) In Appendix 1, after Form 49.11-H (form of certificate of execution of arrestment of ship or cargo on the dependence), insert the Forms set out in Schedule 2 to this Act of Sederunt.

### **Amendment of the Summary Cause Rules**

**4.**—(1) The Summary Cause Rules are amended in accordance with subparagraph (2).

(2) After rule 6.A4(1) (recall etc. of arrestment or inhibition)<sup>(15)</sup>, insert—

“(1A) An incidental application under paragraph (1) shall—

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<sup>(14)</sup> 1985 c.73. Section 8 is prospectively amended (from 8 December 2014) by the Land Registration etc. (Scotland) Act 2012 (asp 5), section 55 and schedule 5, paragraph 30.

<sup>(15)</sup> Rule 6.A4 was inserted by S.S.I. 2008/121.

- (a) specify the name and address of each of the parties;
- (b) where it relates to an inhibition, contain a description of the inhibition including the date of registration in the Register of Inhibitions and Adjudications.”.

#### **Amendment of the Small Claim Rules**

5.—(1) The Small Claim Rules are amended in accordance with subparagraph (2).

(2) After rule 7.A4(1) (recall etc. of arrestment or inhibition)(16), insert—

“(1A) An incidental application under paragraph (1) shall—

- (a) specify the name and address of each of the parties;
- (b) where it relates to an inhibition, contain a description of the inhibition including the date of registration in the Register of Inhibitions and Adjudications.”.

Edinburgh  
5th November 2014

*BRIAN GILL*  
Lord President  
I.P.D.