SCOTTISH STATUTORY INSTRUMENTS

2017 No. 169

Act of Sederunt (Sheriff Court Rules Amendment) (European Small Claims Procedure and European Order for Payment Procedure) 2017

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Rules Amendment) (European Small Claims Procedure and European Order for Payment Procedure) 2017.

(2) It comes into force on 14th July 2017.

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

Amendments to the Act of Sederunt (Sheriff Court European Small Claims Procedure Rules) 2008

2.—(1) The Act of Sederunt (Sheriff Court European Small Claims Procedure Rules) 2008(**1**) is amended in accordance with this paragraph.

(2) In rule 5 (ancillary applications), before paragraph (1) insert—

"(A1) An application under paragraph 1 of Article 8 (oral hearing by distance communication technology)(**2**) is to be made by minute in Form 2A, together with the proposed request in Form A or I (as the case may be) in the Annex to Council Regulation (EC) No 1206/2001 of 28th May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters(**3**).".

(3) In the schedule (forms)—

(a) after Form 2 (transfer to domestic procedure)(**4**), insert the Form in the schedule of this Act of Sederunt; and

(b) in Form 3 (application for review of judgment)—

(i) for "Service was not effected in sufficient time to enable me to arrange for my defence, without any fault on my part" substitute "I was not served with the claim form, or, in the event of an oral hearing, was not summoned to that hearing, in sufficient time and in such a way as to enable me to arrange for my defence"; and

(ii) for "objecting to" substitute "contesting".

(**1**) S.S.I. 2008/435, as amended by S.S.I. 2016/367.

(**2**) Article 8 of Regulation (EC) 861/2007 of the European Parliament and of the Council of 11th July 2007 establishing a European Small Claims Procedure (OJ L 199, 31.7.2007, p.1) was substituted by Article 1(5) of Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure (OJ L 341, 24.12.2015, p.1).

(**3**) OJ L 174, 27.6.2001, p.1.

(**4**) Form 2 was amended by S.S.I. 2016/367.

Amendments to the Act of Sederunt (Sheriff Court European Order for Payment Procedure Rules) 2008

3.—(1) The Act of Sederunt (Sheriff Court European Order for Payment Procedure Rules) 2008(**5**) is amended in accordance with this paragraph.

(2) In rule 2(1) (interpretation)(**6**), before the definition of "the Regulation" insert—

""European Small Claim" means a claim presented under the procedure established by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11th July 2007 establishing a European Small Claims Procedure(**7**), and "European Small Claims Procedure" is interpreted accordingly;".

(3) In rule 5 (opposition to European order for payment)—

(a) in paragraph (2)(**8**), for "The proceedings" substitute "Subject to paragraph (2A), unless the claimant has explicitly requested that the proceedings not continue as follows, the proceedings";

(b) after paragraph (2) insert—

"(2A) Where the claimant has requested that the European Small Claims Procedure is to apply to the claim and the claim falls within the scope of that procedure, the proceedings shall continue under the European Small Claims Procedure and the sheriff is to make an order containing such provision as the sheriff thinks fit for the purpose of bringing the proceedings into line with an appropriate stage of proceedings under that procedure."; and

(c) in paragraph (3)—

(i) after "paragraph (2)" insert "or (2A)";

(ii) in sub-paragraph (a), after "the rules" insert "or procedure"; and

(iii) in sub-paragraph (b), after "those rules" insert "or procedure".

(4) In the schedule (forms), in Form 1 (statement of opposition)(**9**) after "[*simple procedure case*]" insert "[*a European Small Claim*]".

CJM SUTHERLAND
Edinburgh   Lord President
30th May 2017   I.P.D.

(**5**) S.S.I. 2008/436, as amended by S.S.I. 2016/367.
(**6**) Rule 2(1) was amended by S.S.I. 2016/367.
(**7**) OJ L 199, 31.7.2007, p.1, as amended by Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16th December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure (OJ L 341, 24.12.2015, p.1).
(**8**) Rule 5(2) was amended by S.S.I. 2016/367.
(**9**) Form 1 was amended by S.S.I. 2016/367.