

2017 No. 202

COURT OF SESSION

SHERIFF COURT

**Act of Sederunt (Rules of the Court of Session 1994 and Sheriff
Court Rules Amendment) (Regulation (EU) 2015/848) 2017**

<i>Made</i> - - - -	<i>14th June 2017</i>
<i>Laid before the Scottish Parliament</i>	<i>16th June 2017</i>
<i>Coming into force</i> - -	<i>26th June 2017</i>

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 5 of the Judicial Factors (Scotland) Act 1880(b), paragraph 1A of schedule 2 of the European Communities Act 1972(c), sections 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014(d) and all other powers enabling it to do so.

This Act of Sederunt makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Court of Session that it is expedient for the references in this Act of Sederunt to Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings(e) to be construed as references to that instrument as amended from time to time.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (Regulation (EU) 2015/848) 2017.

(2) It comes into force on 26th June 2017.

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

(a) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).
(b) 1880 c.4, as amended by the Judicial Factors (Scotland) Act 1889 (c.39), the Statute Law Revision Act 1894 (c.56) and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55).
(c) 1972 c.68. Paragraph 1A of schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c.51), section 28, and amended by the European Union (Amendment) Act 2008 (c.7), schedule, Part 1.
(d) 2014 asp 18.
(e) O.J. L 141, 5.6.2015, p.19.

Amendment of the Sheriff Court Bankruptcy Rules 2016

2.—(1) The Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016(a) is amended in accordance with this paragraph.

(2) In rule 1.2 (interpretation)—

(a) in paragraph (1), for the definition of “Council Regulation” substitute—

““Council Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings, as amended from time to time.”;

(b) in paragraph (2) for “liquidator” substitute “insolvency practitioner”.

(3) In Schedule 1, in Form 6.1A, in the Statement of Facts—

(a) in paragraphs 1 and 3, for “liquidator” substitute “insolvency practitioner”; and

(b) in paragraph 3, for “Council Regulation (EC) No. 1346/2000 on insolvency proceedings” substitute “Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings, as amended from time to time”.

Amendment of the Rules of the Court of Session 1994

3.—(1) The Rules of the Court of Session 1994(b) are amended in accordance with this paragraph.

(2) In rule 62.91(3)(e) (general), for “liquidator” substitute “insolvency practitioner”.

(3) In rule 74.1 (application and interpretation of this chapter)—

(a) for the definition of “Council Regulation” substitute—

““Council Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings, as amended from time to time.”;

(b) in the definition of “establishment”, for “Article 2(h)” substitute “Article 2(10)”;

(c) in the definition of “main proceedings”, for “Article 2(a)” substitute “Article 2(4)”.

(4) In rule 74.24(1A) (substitution of creditor or contributory for petitioner), for “liquidator” substitute “insolvency practitioner”.

(5) In rule 74.25(1)(b) (provisional liquidator), for “liquidator” substitute “insolvency practitioner”.

Amendment of the Judicial Factors Rules 1992

4.—(1) The Act of Sederunt (Judicial Factors Rules) 1992(c) is amended in accordance with this paragraph.

(2) In rule 2 (interpretation)—

(a) for the definition of “Council Regulation” substitute—

““Council Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings, as amended from time to time.”;

(b) in the definition of “establishment”, for “Article 2(h)” substitute “Article 2(10)”;

(c) in the definition of “main proceedings”, for “Article 2(a)” substitute “Article 2(4)”.

(a) S.S.I. 2016/313.

(b) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by S.S.I. 2017/132.

(c) S.I. 1992/272, last amended by S.S.I. 2016/312.

Amendment of the Sheriff Court Company Insolvency Rules 1986

5.—(1) The Act of Sederunt (Sheriff Court Company Insolvency Rules) 1986(**a**) is amended in accordance with this paragraph.

(2) In rule 3.1 (interpretation), for the definition of “Council Regulation” substitute—

““Council Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings, as amended from time to time.”.

Savings

6. The amendments made by this Act of Sederunt do not apply to proceedings which are subject to Regulation (EC) 1346/2000 of 29th May 2000 on insolvency proceedings(**b**).

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
14th June 2017

(a) S.I. 1986/2297, last amended by S.S.I. 2015/419

(b) O.J. L 160, 30.6.2000, p.1.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Sheriff Court Bankruptcy Rules 2016, the Rules of the Court of Session 1994, the Judicial Factors Rules 1992 and the Sheriff Court Company Insolvency Rules 1986 to replace references to Regulation (EC) 1346/2000 of 29th May 2000 on insolvency proceedings, which has been repealed and replaced by Regulation (EU) 2015/848 of the European Parliament and of the Council of 20th May 2015 on insolvency proceedings. References to “member state liquidator” are replaced with references to “member state insolvency practitioner” to reflect the terminology used in the new Regulation.

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£4.25

S201706141000 06/2017 19585

<http://www.legislation.gov.uk/id/ssi/2017/202>

ISBN 978-0-11-103615-0



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