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**STATUTORY INSTRUMENTS**

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**1973 No. 2117 (S.155)****SHERIFF COURT, SCOTLAND****Act of Sederunt (Domicile and Matrimonial Proceedings  
Act 1973) 1973***Made* - - - 12th December 1973*Coming into Operation* 1st January 1974

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 32 of the Sheriff Courts (Scotland) Act 1971(a) and of all other powers competent to them in that behalf do hereby enact and declare as follows:—

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Domicile and Matrimonial Proceedings Act 1973) 1973 and shall come into operation on 1st January 1974.

(2) The Interpretation Act 1889(b) shall apply for the interpretation of this Act of Sederunt as it applies for the interpretation of an Act of Parliament.

**2.**—(1) The condescence of the initial writ (either in its original form or as amended at any time prior to the commencement of Proof) in every action of separation in the Sheriff Court shall contain a short statement of whether to the knowledge of the pursuer any proceedings are continuing in any country outside Scotland which are in respect of the marriage to which the initial writ relates or are capable of affecting its validity or subsistence.

(2) If there are any such proceedings said statement shall give particulars thereof including—

- (a) The Court or Tribunal or authority before which they have been commenced;
- (b) The date of commencement;
- (c) The names of the parties;
- (d) The date or expected date of any proof in the proceedings; and
- (e) Such other facts as may be relevant to the question of whether the Sheriff Court action should be sisted under Schedule 3 of the Domicile and Matrimonial Proceedings Act 1973(c).

(3) For the purposes of this Act of Sederunt and said Schedule 3, proceedings shall be treated as “continuing” where proceedings in respect of that marriage or capable of affecting its validity have been instituted before a Court, Tribunal or other authority in any country outside Scotland and such proceedings have not been finally disposed of.

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(a) 1971 c. 58.  
(c) 1973 c. 45.

(b) 1889 c. 63.

(4) A short statement such as is referred to in sub-section (1) hereof shall in all such actions be inserted in any defences or minutes lodged by any party in such action, containing the particulars referred to in sub-section (2) hereof insofar as these particulars are additional to or contradictory of any such particulars provided by the pursuer in the action, or in any case in which the pursuer has provided no such statement.

(5) Any application made by any party in an action of separation for an order in terms of Part I or Part II of Schedule 2 of the Domicile and Matrimonial Proceedings Act 1973 or for a sist of such an action or the recall of a sist in such an action in terms of said Schedule 3 shall be made by written motion.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

*G. C. Emslie,*  
I. P. D.

Edinburgh.  
12th December 1973.

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#### EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt provides that a short statement shall be inserted in all initial writs in every action of separation and in defences and minutes lodged in such actions *inter alia* averring what other proceedings are continuing in any country other than Scotland in respect of that marriage or which may affect the validity of the marriage. It further provides that applications to the Court under Parts I and II of Schedule 2 and Schedule 3 of the Domicile and Matrimonial Proceedings Act 1973 shall be made by way of written motion.

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