EXPLANATORY NOTE

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

This Act of Sederunt–

(1) amends the Rules of the Court of Session to–

(a) provide for applications in relation to the recall or restriction of an arrestment or an inhibition on the dependence of an action before calling to be by motion (paragraph 2(2));

(b) provide for service on a defender at his dwelling place or a place where he carries on business on persons at such a place or depositing there (paragraph 2(3));

(c) alter the procedure for dealing with expenses in decrees in absence (paragraph 2(6) and (31));

(d) provide for summary decree in commercial causes (paragraph 2(7));

(e) provide for a person to apply for the recall or variation of an order to give evidence following a letter of request under the Evidence (Proceedings in other Jurisdictions) Act 1975(c. 34) (paragraph 2(8));

(f) provide for the lodging of documents founded on in pleadings in actions (paragraph 2(4), (5) and (9)) and petitions (paragraph 2(15) and (16));

(g) provide for recall of arrestments in admiralty causes to be by motion, and for motions to seek authority to move arrested ships (paragraph 2(10));

(h) provide for the cessure of the exclusion of vacation days from the adjustment period in consistorial actions (paragraph 2(11));

(i) provide for the procedure to be applied in applications by a person who is not a parent, tutor, curator or guardian of a child for custody of that child in a consistorial action and consequential amendments (paragraph 2(12)(a) and (d), (24)(b) and (32)(f) and (g));

(j) provide for applications to the court in relation to children after decree in consistorial actions (paragraph 2(12)(b) and (c));

(k) provide for the referral of custody or access disputes to the Family Conciliation Service (paragraph 2(12)(d) and 24(c));

(l) provide for the procedure for applying for diligence on the dependence in applications by a defender for financial provision in a divorce action (paragraph 2(13)(a));

(m) provide for certain applications for incidental orders under the Family Law (Scotland) Act 1985(c. 37) (paragraph 2(13) (b));

(n) provide for applications under any enactment not otherwise provided for in the rules to be by petition to the Outer House (paragraph 2(14));

(o) provide for applications by judicial factors to encroach on capital of wards (paragraph 2(17));

(p) provide for causes under the Criminal Justice (Scotland) Act 1987 (paragraph 2(18) and (32)(h));

(q) provide for the induciae for service of, and the non-application of the requirement to advertise, a petition for the disqualification of a company director (paragraph 2(19));

(r) provide for applications under the Multilateral Investment Guarantee Agency Act 1988 (paragraph 2(20));

(s) provide for reciprocal enforcement of orders in relation to confiscation of the proceeds of crime under the Criminal Justice (Scotland) Act 1987 and the Criminal Justice Act 1988 (paragraph 2(21) and (32)(e));

(t) applications under the Trade Marks Act 1938 and the Copyright, Designs and Patents Act 1988 (paragraph 2(22));

(u) correct the cross-heading above rule 260P (registration and enforcement of custody orders under the Family Law Act 1986) (paragraph 2(25));

(v) provide for reclaiming, without leave, interlocutors which dispose of a cause other than the question of expenses (paragraph 2(26));

(w) provide for appeals under the Inheritance Tax Act 1984 and the Stamp Duty Reserve Tax Regulations 1986 and consequential amendments (paragraph 2(27) and (29));

(x) provide for appeals relating to penalties under section 100C(4) of the Taxes Management Act 1970(c. 9) (substituted for section 100(6) of that Act by section 167 of the Finance Act 1989(c. 26) (paragraph 2 (28));

(y) provide that a certificate of additional remuneration for a skilled witness may be obtained where the proof or trial does not proceed (paragraph 2(30));

(z) correct the numbering of forms relating to applications for judicial review and petitions for custody of children (paragraph 2(23), (24)(a) and (b) and (32)(a) to (d));

(2) revokes the Act of Sederunt (Computer Evidence in the Court of Session) 1969.