
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 648

Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2005

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2005 and shall come into force on 2nd January 2006.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(1) are amended in accordance with sub-paragraphs (2) to (4).

(2) In rule 33.27A(1) (applications for European matrimonial certificates)(2) for “sheriff” substitute “sheriff clerk”.

(3) In rule 33.93 (intimation to Principal Reporter) for “that section” substitute “section 52 of that Act”.

(4) In Appendix 1—

(a) for Form G11 substitute the form set out in Schedule 1 to this Act of Sederunt; and

(b) for Form F26 substitute the form set out in Schedule 2 to this Act of Sederunt(3).

Amendment of Summary Application Rules

3.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(4) is amended in accordance with sub-paragraphs (2) and (3).

(2) In Part IX of Chapter 3 (Proceeds of Crime (Scotland) Act 1995) sub-paragraph (a) of rule 3.9.3(2) (note for recall or variation of restraint orders) shall be omitted.

(3) In Part XXVI of Chapter 3 (Protection of Children (Scotland) Act 2003)(5), rules 3.25.1 to 3.25.6 shall be renumbered as rules 3.26.1 to 3.26.6.

(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 566, 2003/25 and 26, 2004/197 and 350 and 2005/20, 189 and 638.

(2) Rule 33.27A was inserted by S.S.I. 2001/144.

(3) Form F26 was amended by S.S.I. 2000/239.

(4) S.I. 1999/929, amended by S.S.I. 2000/148 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, 2003/26, 27, 98, 261, 319, 346 and 556, 2004/197, 222, 334 and 455, 2005/61, 473 and 504.

(5) Part XXVI was inserted by S.S.I. 2004/334.

Amendment of Summary Cause Rules

4.—(1) The Act of Sederunt (Summary Cause Rules) 2002⁽⁶⁾ is amended in accordance with sub-paragraph (2).

(2) In Appendix 1, for Form 24 substitute the form set out in Schedule 3 to this Act of Sederunt.

Amendment of Small Claim Rules

5.—(1) The Act of Sederunt (Small Claim Rules) 2002⁽⁷⁾ is amended in accordance with sub-paragraphs (2) and (3).

(2) For rule 21.6(1) (expenses) there shall be substituted—

“21.6.—(1) This rule applies, subject to section 36B of the 1971 Act⁽⁸⁾, to the determination of expenses—

(a) in a claim, where the defender has—

(i) not stated a defence;

(ii) having stated a defence, has not proceeded with it; or

(iii) having stated a defence, has not acted in good faith as to its merits;

(b) in a claim where there has been unreasonable conduct on the part of a party to that claim in relation to the proceedings or the claim; or

(c) in an appeal to the sheriff principal.”

(3) In Appendix 1 for Form 15 substitute the form set out in Schedule 4 to this Act of Sederunt.

Edinburgh
14th December 2005

A.C. Hamilton
Lord President I.P.D.

⁽⁶⁾ S.S.I. 2002/132, amended by S.S.I. 2002/516, 2003/26 and 2004/197.

⁽⁷⁾ S.S.I. 2002/133, amended by S.S.I. 2003/26 and 2004/197.

⁽⁸⁾ Section 36B of the Sheriff Courts (Scotland) Act 1971 was inserted by section 18(2) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73) and amended by article 2 of the Schedule to S.I. 1999/678.