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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 128**

**Act of Sederunt (Ordinary Cause Rules)  
Amendment (Applications under the Protection  
from Abuse (Scotland) Act 2001) 2002**

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Ordinary Cause Rules) Amendment (Applications under the Protection from Abuse (Scotland) Act 2001) 2002 and shall come into force on 8th March 2002.

(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) shall be amended in accordance with the following paragraphs.

(2) After Chapter 40 (commercial actions)(2), insert—

“CHAPTER 41

PROTECTION FROM ABUSE (SCOTLAND) ACT 2001

**Interpretation**

41.1.—(1) In this Chapter a section referred to by number means the section so numbered in the Protection from Abuse (Scotland) Act 2001.

(2) Words and expressions used in this Chapter which are also used in the Protection from Abuse (Scotland) Act 2001 have the same meaning as in that Act.

**Attachment of power of arrest to interdict**

41.2.—(1) An application under section 1(1) (application for attachment of power of arrest to interdict)—

(a) shall be made in the crave in the initial writ, defences or counterclaim in which the interdict to which it relates is applied for, or, if made after the application for interdict, by motion in the process of the action in which the interdict was sought; and

(b) shall be intimated to the person against whom the interdict is sought or was obtained.

(2) Where the sheriff attaches a power of arrest under section 1(2) (order attaching power of arrest) the following documents shall be served along with the power of arrest in accordance with section 2(1) (documents to be served along with power of arrest):—

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(1) 1907 c. 51. Schedule 1 was substituted by S.I.1993/1956 and amended by S.I. 1996/2167 and 2445, and by S.S.I. 2000/239 and 408, 2001/8 and 144, and 2002/7.

(2) Inserted by S.S.I. 2001/8.

- (a) a copy of the application for interdict;
  - (b) a copy of the interlocutor granting interdict; and
  - (c) where the application to attach the power of arrest was made after the interdict was granted, a copy of the certificate of service of the interdict.
- (3) After the power of arrest has been served, the following documents shall be delivered by the person who obtained the power to the chief constable in accordance with section 3(1) (notification to police):–
- (a) a copy of the application for interdict;
  - (b) a copy of the interlocutor granting interdict;
  - (c) a copy of the certificate of service of the interdict; and
  - (d) where the application to attach the power of arrest was made after the interdict was granted–
    - (i) a copy of the application for the power of arrest;
    - (ii) a copy of the interlocutor granting it; and
    - (iii) a copy of the certificate of service of the power of arrest and the documents that required to be served along with it in accordance with section 2(1).

#### **Extension or recall of power of arrest**

- 41.3.**—(1) An application under either of the following provisions shall be made by minute in the process of the action in which the power of arrest was attached:–
- (a) section 2(3) (extension of duration of power of arrest);
  - (b) section 2(7) (recall of power of arrest).
- (2) Where the sheriff extends the duration of, or recalls, a power of arrest, the person who obtained the extension or recall must deliver a copy of the interlocutor granting the extension or recall in accordance with section 3(1).

#### **Documents to be delivered to chief constable in relation to recall or variation of interdict**

- 41.4.** Where an interdict to which a power of arrest has been attached under section 1(2) is varied or recalled, the person who obtained the variation or recall must deliver a copy of the interlocutor varying or recalling the interdict in accordance with section 3(1).

#### **Certificate of delivery of documents to chief constable**

- 41.5.** —Where a person is in any circumstances required to comply with section 3(1) he shall, after such compliance, lodge in process a certificate of delivery in Form PA1.”.
- (3) In Appendix 1 (forms), after Form E1 insert Form PA1 as set out in the Schedule to this Act of Sederunt.

Edinburgh  
1st March 2002

*W DOUGLAS CULLEN*  
Lord President, I.P.D.