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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 563**

**Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment  
(No. 5) (Proceeds of Crime Act 2002) 2002**

**Amendment and revocation of the principal Rules**

2.—(1) In the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999<sup>(1)</sup>, Chapter 3 (rules on applications under specific statutes) is amended in accordance with the following paragraphs.

(2) After Part XVIII (Local Government (Scotland) Act 1973)<sup>(2)</sup>, insert—

**“PART XIX**

**PROCEEDS OF CRIME ACT 2002**

*General*

**Interpretation and application**

**3.19.1.**—(1) In this Part—

“the Act” means the Proceeds of Crime Act 2002<sup>(3)</sup>;

a reference to a specified section is a reference to the section bearing that number in the Act; and any reference to a specified paragraph in a specified Schedule is a reference to the paragraph bearing that number in the Schedule of that number in the Act.

(2) This Part applies to applications to the sheriff under Part 5 of the Act.

*Recovery of cash in summary proceedings*

**Applications for extended detention of cash**

**3.19.2.**—(1) An application to the sheriff for an order under sections 295(2) and (7) (extended detention of seized cash) shall be made by summary application.

(2) An application for any further order for the detention of cash under section 295(2) shall be made by minute in the process of the original application for extended detention of seized cash and shall be proceeded with in accordance with sub-paragraph (3) below.

(3) On the lodging of an application for any further order the sheriff shall—

(a) fix a date for determination of the application; and

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<sup>(1)</sup> S.I.1999/929 as amended by S.S.I.2000/148 and 387, 2001/142 and 2002/7, 129, 130 and 146.

<sup>(2)</sup> Part XVIII was inserted by S.S.I. 2002/130.

<sup>(3)</sup> 2002 c. 29.

- (b) order service of the application together with notice of such date for determination on any persons whom he considers may be affected.

#### **Applications for release of detained cash**

**3.19.3.**—(1) An application to the sheriff under section 297(3) (application for release of detained cash) or under section 301(1) (application by person who claims that cash belongs to him) shall, where the court has made an order under section 295(2), be made by minute in the process of the application for that order, and in any other case shall be made by summary application in the course of the proceedings or at any other time.

- (2) On the lodging of such an application the sheriff shall—
  - (a) fix a date for a hearing; and
  - (b) order service of the application together with notice of such hearing on the procurator fiscal and any other person whom he considers may be affected by the granting of such an application.

#### **Applications for forfeiture of detained cash**

**3.19.4.**—(1) An application to the sheriff under section 298(1)(b) (application by the Scottish Ministers for forfeiture of detained cash) shall, where the court has made an order under section 295(2), be made by minute in the process of the application for that order, and in any other case shall be made by summary application.

- (2) On the lodging of such an application the sheriff shall—
  - (a) fix a date for a hearing; and
  - (b) order service of the application together with notice of such hearing on any person whom he considers may be affected by the granting of such an application.

#### **Applications for compensation**

**3.19.5.**—(1) An application to the sheriff under section 302(1) (application for compensation) shall, where the court has made an order under section 295(2), be made by minute in the process of the application for that order, and in any other case shall be made by summary application.

- (2) On the lodging of such an application the sheriff shall—
  - (a) fix a date for a hearing; and
  - (b) order service of the application together with notice of such hearing on any person whom he considers may be affected by the granting of such an application.”.

(3) Part VI (Drug-trafficking) of the Rules is revoked, with savings in relation to any proceedings which prior to the coming into force of the Proceeds of Crime Act 2002 have been commenced by the lodging of an application for an order under the Drug Trafficking Act 1994(4).