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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 288**

**Act of Sederunt (Rules of the Court of Session  
Amendment No. 4) (Miscellaneous) 2011**

**Domestic Abuse (Scotland) Act 2011**

- 11.**—(1) The Rules are amended in accordance with the following subparagraphs.
- (2) After rule 85.2(3)(d) (delivery of certain documents to the chief constable)(1) insert—
- “**(e)** where a determination has previously been made in respect of such interdict under section 3(1) of the Domestic Abuse (Scotland) Act 2011(2), a copy of the interlocutor making the determination.”.
- (3) After Chapter 85 (applications under the Protection from Abuse (Scotland) Act 2001)(3) insert—

**“CHAPTER 85A**

**DOMESTIC ABUSE INTERDICTS**

**Interpretation and application of this Chapter**

- 85A.1.**—(1) In this Chapter—
- “the 2011 Act” means the Domestic Abuse (Scotland) Act 2011; and
- “interdict” includes interim interdict.
- (2) This Chapter applies to an application for a determination under section 3(1) of the 2011 Act that an interdict is a domestic abuse interdict.

**Applications for determination that an interdict is a domestic abuse interdict**

- 85A.2.**—(1) An application made before the interdict is obtained must be made by a conclusion of the summons, the prayer of the petition, the defences, answers or counterclaim in which the interdict is sought.
- (2) An application made after the interdict is obtained must be—
- (a) made by motion in process; and
- (b) intimated to the person against whom the interdict was obtained.
- (3) In respect of a determination of an application under paragraph (2), the following documents must be served along with the interlocutor in accordance with section 3(4) of the 2011 Act—
- (a) a copy of the application for interdict;

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(1) Rule 85.2 was inserted by [S.S.I. 2002/514](#) and amended by [S.S.I. 2006/206](#).  
(2) [2011 asp 13](#).  
(3) Chapter 85 was inserted by [S.S.I. 2002/514](#).

- (b) a copy of the interlocutor granting interdict; and
  - (c) a copy of the certificate of service of the interdict.
- (4) Paragraph (5) applies where, in respect of the same interdict—
- (a) a power of arrest under section 1 of the Protection from Abuse (Scotland) Act 2001<sup>(4)</sup> is in effect; and
  - (b) a determination under section 3(1) of the 2011 Act is made.
- (5) As soon as possible after the determination has been served under section 3(4) of the 2011 Act, the documents specified in paragraph (6) must be sent by the person who obtained the determination to such chief constable as the court sees fit.
- (6) The documents are—
- (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 for a determination was made after the interdict was granted—
    - (i) a copy of the application for the determination;
    - (ii) a copy of the interlocutor granting it; and
    - (iii) a copy of the certificate of service of the determination.
- (7) Where paragraph (5) applies and the determination is recalled under section 3(5) of the 2011 Act, the court must appoint a person to send a copy of the interlocutor recalling the determination to such chief constable as the court sees fit.
- (8) Where a person is required by virtue of this Chapter to send documents to a chief constable, such person must, after such compliance, lodge in process a certificate of sending documents in Form 85A.2.”.
- (4) In Appendix 1, after Form 85.5<sup>(5)</sup> insert the Form 85A.2 set out in the Schedule to this Act of Sederunt.

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(4) 2001 asp 14.

(5) Form 85.5 was inserted by S.S.I. 2002/514.