
EXPLANATORY NOTE

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

This Act of Sederunt makes miscellaneous amendments to the Ordinary Cause Rules, the Summary Cause Rules and the Sheriff Court Bankruptcy Rules; and certain other minor changes.

Paragraphs 2 and 3 amend the Ordinary Cause Rules and the Summary Cause Rules in consequence of the Damages (Scotland) Act 2011.

The amendments made by paragraphs 2(2) and 3(2) are designed to simplify the rules so that there is now a general reference to claims in respect of the death of the deceased to cover both claims of relatives and claims of relatives' executors.

Paragraph 2(3) substitutes references to section 5(1) and (2) of the 2011 Act into rule 36.19 of the Ordinary Cause Rules, which makes special provision in relation to cases in which a personal injury in consequence of which a person dies is mesothelioma.

Paragraph 4 provides that the Lord President may determine the remuneration of an assessor appointed by a sheriff.

Paragraph 5 inserts a new Chapter into the Ordinary Cause Rules in consequence of the Domestic Abuse (Scotland) Act 2011. In particular, the rules specify how applications for a determination that an interdict is a domestic abuse interdict must be made; the Forms that must be served where a determination is made or recalled; and where a determination under section 3 of the 2011 Act and a power of arrest under section 1 of the Protection from Abuse (Scotland) Act 2001 are in effect in respect of the same interdict, certain documents must be sent to such chief constable(s) as the sheriff thinks fit. This is because in terms of section 2(2) of the 2011 Act, a person who breaches such an interdict commits a criminal offence.

Paragraph 6 amends the Sheriff Court Bankruptcy Rules to provide specific provisions in relation to the service of sequestration petitions. Paragraph 6(4) contains a savings provision.