

**Act of Sederunt (Sheriff Court Rules)  
(Miscellaneous Amendments) (No.2) 2011 (SSI 2011/???)**

**RULES NOTE**

**INTRODUCTION**

This document relates to the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No.2) 2011 (SSI 2011/???) which was made on ??? 2011. It has been prepared by the Secretariat to the Sheriff Court Rules Council and outlines the reasons for changes to rules as a consequence of the various provisions contained within the miscellaneous instrument.

**CONTENT OF THE INSTRUMENT**

Service of sequestration petitions

Specific rules for the service of sequestration petitions are now provided where the debtor is a living individual, where the debtor is deceased, and where the debtor is an entity whose estate may be sequestrated by virtue of section 6(1) of the Bankruptcy (Scotland) Act 1985.

The rules make provision for service of the petition, warrant to cite and Form 5A on the debtor(s) either by postal or personal citation whichever is applicable. They also provide for a creditor making an application to the sheriff for authority to serve by such other means as the sheriff thinks fit with such an application being made either by crave in the petition or by motion.

Damages (Scotland) Act 2011

Changes to both ordinary cause rule 36.1 and summary cause rule 34.6 are necessary as a consequence of the Damages (Scotland) Act 2011 and are designed to simplify each rule whilst leaving in place a general reference to a claim in respect of the death of the deceased which would cover both claims of relatives and claims of relatives' executors.

It is also necessary to amend the reference to rule 36.19 (mesothelioma actions: special provisions) in the ordinary cause rules so that it now refers to Section 5 of the 2011 Act.

Domestic Abuse (Scotland) Act 2011

The Act enables a person who is applying for or who has obtained an interdict to apply to the court for a determination that the interdict is a domestic abuse interdict. The court may make the determination if satisfied that the interdict is, or is to be, granted to protect the applicant against specific persons as defined by section 3(2) of the Act.

The rules set out the procedure to be followed in either case.

A determination is of no effect until a copy of the interlocutor in Form DA1 has been served on the person against whom the interdict has been granted.

Where a power of arrest is in effect and a determination has been made in respect of the same interdict then a copy of each of the interlocutors in Forms DA1 and DA2 must be sent to the appropriate Chief Constable by such person appointed by the sheriff. This is to ensure the Chief Constable is aware that the interdict is a domestic abuse interdict and that he/she is satisfied that the determination has been served on the person who is the subject of it as the breach of such an interdict is a criminal offence.

If the interdict is recalled then a copy of the interlocutor in Form DA3 must be sent by such person appointed by the sheriff to the appropriate Chief Constable.

**Secretariat to the Sheriff Court Rules Council**

It should be noted that this Rules Note is for information purposes only.