

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) (No.2) 2010 (SSI 2010/416)**

RULES NOTE

INTRODUCTION

This document relates to the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No.2) 2010 (SSI 2010/416) which was made on 24th November 2010. 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

Lay support for party litigants (paragraphs 2 to 5)

Following upon the recommendation of the Scottish Civil Courts Review that a party litigant should be entitled to lay support in the conduct of proceedings, the Council resolved that appropriate rules should be included in each of the ordinary cause, summary application, summary cause and small claim rules. The provisions enable a sheriff upon the request of a party litigant to permit a named individual to assist the litigant in the conduct of the proceedings by sitting beside or behind the litigant at hearings in court or in chambers in order to provide moral support, help manage court documents and papers, take notes of proceedings and quietly advise on points of law and procedure etc. The named individual does not have a right though to address the court on behalf of the litigant nor are they to receive any remuneration from the litigant for their assistance.

Ordinary Cause Rule 30.5 (paragraph 6)

Minor textual amendments are made to this rule, which deals with extract of certain awards notwithstanding appeal, to reflect orders made under section 11 of the Children (Scotland) Act 1995.

Intimation to Local authority in family and civil partnership actions (paragraph 7)

This paragraph amends the ordinary cause rules to remove the requirement for certain family actions to be intimated to local authorities and for local authorities receiving such intimation to prepare a report. The legal basis that required local authorities to prepare reports in these circumstances was section 49 of the Children Act 1975, which was repealed by the Children (Scotland) Act 1995. However, the rules preserve the sheriff's power to order intimation of such proceedings to a local authority where the sheriff considers this is necessary. A similar change has been made to the corresponding provisions for civil partnership actions.

Foreign decrees in family actions (paragraph 8)

This provision amends the definition of "family action" in rule 33.1 and corresponding rule 33.28 of the ordinary cause rules so as to include such actions. A new Part XVI is inserted in Chapter 33 relating to the procedure to be

followed in actions for declarator of recognition or non-recognition of a foreign decree.

The Criminal Justice and Licensing (Scotland) Act 2010 (paragraph 9)

Licensing

This provision changes the existing method of appeal from application by stated case to that of a summary application and is as a consequence of an amendment made to the Licensing (Scotland) Act 2005 by the Criminal Justice and Licensing (Scotland) Act 2010. The time limit within which an appeal is to be lodged has also changed to not later than 21 days after the date of the decision of the Licensing Board or, where a statement of reasons is required, the date of issue of the statement of reasons.

Closure Orders

Various amendments have had to be made to certain Forms used in relation to Closure Orders so they now provide for orders in cases involving exploitation offences. These changes are made as a consequence of an amendment made to the Antisocial Behaviour (Scotland) Act 2004 by the Criminal Justice and Licensing (Scotland) Act 2010.

The Act of Sederunt comes into force on 1st January 2011, apart from paragraph 9 which comes into force on 13th December 2010 (which is the date that the relevant provisions of the Criminal Justice and Licensing (Scotland) Act 2010 come into force).

Secretariat to the Sheriff Court Rules Council

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