

## SHERIFF COURT RULES COUNCIL & COMMITTEES BUSINESS PLAN 2010 – 2011

### Aims of Council:

- ♦ To review civil practice and procedure within the sheriff court
- ♦ To consider the need for rules of court flowing from new and amended legislation and to instruct subordinate legislation as required
- ♦ To support the Council IT Committee established to consider wider use of information technology in dispute resolution
- ♦ To support the Council Ordinary Cause Committee in the development of Ordinary Cause procedure
- ♦ To support the Lord President’s Advisory Group established to consider the need for new and or amended rules of court flowing from the legislative changes in the Bankruptcy and Diligence (Scotland) Act 2007
- ♦ To support the Council Working Group established to consider the terms of the Civil Courts Review Report and make proposals for changes to the rules to the Council
- ♦ To support the Council Working Group established to consider the need for new and or amended rules of court flowing from the legislative changes in the Home Owner and Debtor Protection (Scotland) Act 2010

Objectives	Progress to Date
<p><b><u>Full Council</u></b></p> <p>To instruct the necessary subordinate legislation for the legislation under consideration</p>	
<p>Home Owner and Debtor Protection (Scotland) Act 2010</p>	<ul style="list-style-type: none"> <li>◦ See working group</li> </ul>
<p>Bankruptcy and Diligence (Scotland) Act 2007</p>	<ul style="list-style-type: none"> <li>♦ See Lord President’s Advisory Group on Diligence</li> </ul>
<p>Scottish Civil Courts Review</p>	<ul style="list-style-type: none"> <li>♦ See working group</li> </ul>
<p>Sheriff Court Bankruptcy Rules 2008</p>	<ul style="list-style-type: none"> <li>♦ Under scrutiny by Council</li> </ul>

Objectives	Progress to Date
Pensions Act 2008	<ul style="list-style-type: none"> <li>◦ Draft instrument to be cleared by the Chairman once the relevant regulations and commencement order are available</li> </ul>
<p>Miscellaneous Act 2010 includes –</p> <ul style="list-style-type: none"> <li>• Amendments to New Ordinary Cause PI Rules</li> <li>• Derivative proceedings</li> <li>• Intimation of simplified divorce applications by Sheriff Officer</li> <li>• Notices to admit in summary cause proceedings</li> </ul>	<ul style="list-style-type: none"> <li>◦ Act of Sederunt made on 01/07/10 and came into force on 29/07/10</li> </ul>
<p>Miscellaneous Act 2011 will include –</p> <ul style="list-style-type: none"> <li>• Amendments to Rule 24.1 of the Summary Cause Rules 2002</li> <li>• Regulated agreements</li> <li>• Power to Sheriffs Principal to issue directions amending the name of a party in proceedings</li> <li>• Rules on service of sequestration petitions</li> <li>• Amendments to Ordinary Cause Personal Injury rules</li> <li>• new Summary Cause Personal Injury rules</li> </ul>	<ul style="list-style-type: none"> <li>◦ draft instrument due to be considered by the Council at its November 2010 meeting</li> </ul>
Recognition/Non-recognition of foreign decrees	<ul style="list-style-type: none"> <li>◦ Under scrutiny by Council</li> </ul>
EC Reasoned Opinion – Protective Costs Orders	<ul style="list-style-type: none"> <li>◦ Under scrutiny by Council</li> </ul>
Equality Act 2010	<ul style="list-style-type: none"> <li>◦ Act of Sederunt made on 21 September 2010 and came into force on 1<sup>st</sup> October 2010</li> </ul>
<p><b>IT Committee</b></p> <ul style="list-style-type: none"> <li>♦ To progress the Council’s aim to extend the use of IT in Civil Courts in the</li> </ul>	<ul style="list-style-type: none"> <li>♦ Scottish Court Service developing the specification and selecting of a</li> </ul>

Objectives	Progress to Date
<p>conjoined Court of Session and SCRC IT Committee</p> <ul style="list-style-type: none"> <li>♦ To report this Committee's findings and recommendations and progress made to the Sheriff Court Rules Council quarterly</li> </ul>	<p>contractor for electronic transmission of civil documents in close consultation with the Joint Committee</p> <ul style="list-style-type: none"> <li>♦ Council considered Committee recommendations for rules</li> <li>♦ Council agreed in principle to the amendment of the Summary Cause and Small Claims Rules 2002 to facilitate the operation of the "virtual court"</li> <li>♦ Draft rules recommended to the Council</li> <li>♦ Draft rules to be revisited whenever SCS is in a position to proceed with the procurement of a new system to enable the electronic transmission and handling of small claims and summary cause business</li> </ul>
<p><b>Ordinary Cause Committee</b></p> <ul style="list-style-type: none"> <li>♦ To consider draft rules for personal injury actions in the sheriff court</li> <li>♦ To consider draft rules for ADR in the sheriff court</li> <li>♦ To consider various matters as may be remitted by the Council</li> </ul>	<ul style="list-style-type: none"> <li>♦ Draft rules for ordinary cause personal injury actions recommended to Council</li> <li>♦ Act of Sederunt made on 24 July 2009 and came into force on 2/11/09</li> <li>♦ Draft rules for summary cause personal injury actions under scrutiny by Council</li> <li>♦ Draft rules for ADR recommended to Council</li> <li>♦ Draft rules deferred until such time as the Civil Courts Review recommendations are fully considered by both the Court of Session and Sheriff Court Rules Councils Working Groups</li> </ul>

Objectives	Progress to Date
<p><b>Lord President's Advisory Group on Diligence</b></p> <ul style="list-style-type: none"> <li>♦ In relation to rules of court, to consider the implications flowing from the proposed legislative changes contained in the Bankruptcy &amp; Diligence (Scotland) Act 2007</li> <li>♦ Report back to the Council with proposed amendments to existing rules of court and where needed, new rules of court.</li> </ul>	<ul style="list-style-type: none"> <li>♦ Secretariat working closely with Lord President's Advisory Group on recommendations for diligence reform.</li> <li>♦ Arrestment in execution provisions commenced 1 April 2008</li> <li>♦ Time to pay directions/time order provisions commenced 18 August 2009</li> <li>♦ Money attachment provisions commenced 23 November 2009</li> <li>♦ Removing provisions under scrutiny</li> <li>♦ Admiralty provisions under scrutiny</li> </ul>
<p><b>Home Owner &amp; Debtor Protection Act Working Group</b></p> <ul style="list-style-type: none"> <li>♦ To assess changes required to rules of court resulting from Part I of the Home Owner &amp; Debtor (Scotland) Act 2010 and thereafter make recommendations to the Sheriff Court Rules Council in order to have rules of court in place for commencement of the Act</li> </ul>	<ul style="list-style-type: none"> <li>♦ Act of Sederunt made on 9 September 2010 and came into force on 30 September 2010</li> </ul>
<p><b>Scottish Civil Courts Review Report Working Group</b></p> <ul style="list-style-type: none"> <li>• To consider the recommendations of the Civil Courts Review Report and make proposals for rules to the Council</li> </ul>	<ul style="list-style-type: none"> <li>• Working Group first met on 15 March and agreed recommendations for what changes to rules could be made at this stage</li> <li>• The Council agreed with the recommendations and referred the matter back to the Working Group to proceed accordingly</li> <li>• Working Group met again on 30</li> </ul>

<b>Objectives</b>	<b>Progress to Date</b>
	June and agreed that certain changes to rules be instructed by the secretariat for consideration by the Council at the next appropriate meeting